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Public Participation in Utility Ratemaking Procedures

Senate Committee on Energy and Public Utilities

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PUBLIC HEARING
CALIFORNIA LEGISLATURE
SENATE COMMITTEE
ON
ENERGY AND PUBLIC UTILITIES

SUBJECT:)
)
PUBLIC PARTICIPATION IN)
UTILITY RATEMAKING PROCEDURES)
)
)

STATE BUILDING
107 SOUTH BROADWAY
ROOM 2020
LOS ANGELES, CALIFORNIA

FRIDAY, APRIL 8, 1983
10:00 A. M.

MANUEL E. KETCHAM
Shorthand Reporter

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MEMBERS PRESENT

Senator Herschel Rosenthal, Chairperson
Senator Joseph B. Montoya

LAW LIBRARY
GOLDEN GATE UNIVERSITY

ALSO PRESENT

Assemblyman Tom Hayden

PANEL MEMBERS:

CONSUMER ORGANIZATIONS

Larry Gross, Coalition for Economic Survival
Harvey Rosenfield, CalPIRG
Harry Snyder, Consumer's Union
Walter Zelman, Common Cause

PUBLIC UTILITIES

John Dennis, Assistant Vice President
Pacific Telephone
Del Williams, President
Continental Telephone
Karen Smith, Regulatory Matters Director
General Telephone
Peter W. Hanscher, Attorney
Pacific Gas and Electric Company
Vincent Master, Senior Attorney
San Diego Gas & Electric Company

STAFF PRESENT

John Harrington, Principal Consultant
Ann Gressani, Associate Consultant
Laurel Barton, Senate Fellow
Patricia Stearns, Committee Secretary

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P R O C E E D I N G S

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3 CHAIRPERSON ROSENTHAL: Can you hear at the desk?
4 Well, I'll try to speak loudly, and those who are going to be
5 testifying I hope will do the same. We don't have any microphones.
6 They've got the building all torn up and I guess they got lost
7 some place.

8 Welcome to this meeting of the Senate Energy and
9 Public Utilities Committee. As you know, we're here in Los
10 Angeles to hear about consumer representation before the Public
11 Utilities Commission and other ratesetting agencies.

12 Only very recently has the consumer's relationship
13 to public utilities radically changed. Whereas a few years ago
14 we could virtually pay our utility bills out of pocket money,
15 today, energy bills have soared to grasp a significant portion of
16 the family budget. Although energy rates were the first to
17 skyrocket, we are also expecting the cost of telephone utilities
18 to increase dramatically this year as the result of the federal
19 divestiture of AT&T.

20 It's time to look into the procedures through which
21 our rates are set and find out how the public interest could be
22 better represented. Over 25 other states have established
23 offices assigned to represent consumers in ratemaking
24 proceedings. Though California has a reputation for being an
25 innovative leader in many policy areas, clearly this is one area
26 where we lag shamefully behind.

27 Three bills have been introduced in the Legislature
28 this year which would address the problem of consumer

1 representation in ratemaking. Extra copies of these bills are
2 stacked near today's meeting agenda.

3 Senator Montoya has introduced SB 4 which would
4 provide intervenor fees to representatives of residential rate-
5 payers in order to help defray the costs of participating in
6 rate cases.

7 Assemblywoman Moore has introduced AB 301 which would
8 establish and fund an Office of Consumer Counsel in the Attorney
9 General's Office to represent consumers in ratemaking procedures.

10 And, I have introduced SB 399 which would create a
11 Consumer's Utility Board, a nonprofit, democratically-elected
12 membership organization funded by voluntary contributions, which
13 would represent the interests of ratepayers.

14 I have introduced SB 399 because I want to see that
15 California consumers have the same opportunity to be professionally
16 represented before the PUC that has long been enjoyed by the
17 utilities and industry groups. The advantage I see in CUB is
18 that it will provide quality representation for ratepayers at no
19 cost to taxpayers and with no costs added to utility rates.

20 Ultimately, consumers have to foot the utility bill.
21 It's high time consumers have equal stature in the process which
22 sets the utility rates.

23 I have submitted questions in advance to your morning
24 witnesses and asked for their written response. Please do not
25 read these statements, but simply submit the work to our committee
26 secretary, Patti Stearns, and briefly summarize your main points.
27 As you can see from the agenda, we shall move quickly this
28 morning. So I ask that your remarks be succinct and not repeat

1 earlier testimony.

2 This hearing is being recorded, so remember to
3 identify your name and the name of your organization before you
4 speak. Copies of the final transcript will be available to the
5 public at no charge.

6 Time will be allowed at the end of the meeting to
7 receive the comments of witnesses not listed on the agenda. If
8 you are interested in testifying, please sign on the sign-up
9 sheet available in the front of the room.

10 We're going to make one change in the agenda because
11 City Councilman Hal Bernson is supposed to be in the council
12 chambers right now. And, so, he has asked if he could have his
13 couple of minutes out of turn, and I have acquiesced to that
14 request.

15 So, Councilman Bernson, you're on.

16 MR. BERNSON: Thank you very much, Senator Rosenthal.
17 I appreciate you moving me up on the agenda.

18 I'm here representing the City of Los Angeles and
19 the California Municipal Utilities Association, and we are
20 requesting that amendments be added to the measure which would
21 exclude municipally owned utilities. We feel that in cases where
22 municipal utilities, that they are -- the rates are fixed by
23 either elected officials or elected board of directors where they
24 are elected by 100 percent of the users, or 100 percent of the
25 users at least have the opportunity of registering and voting for
26 those representatives.

27 So, to be very brief, we would ask that the measure --
28 all three measures, or whatever the measures are, the AB 45, SB 340

1 or 399, whichever may come out of committee -- that they would
2 be amended to exclude municipally-owned utilities because we
3 already feel that the ratepayers are represented by elected
4 officials.

5 CHAIRPERSON ROSENTHAL: Can you estimate the time,
6 the percentage of time that the council spends as a ratemaking
7 body?

8 MR. BERSON: Well, the council itself I would say
9 probably spends a minimal part of the time, but certainly we
10 spend the same amount of time, I would say, as the utility
11 commissions do when they consider that these particular rate
12 increases and we have the same information and we require the
13 same information substantiating the need for the raise and we
14 have the same concern, perhaps even more concern even than the
15 PUC because we are an elected body whereas the PUC is an
16 appointed body.

17 CHAIRPERSON ROSENTHAL: Does the council have any
18 expertise on its staff analyzing the proposals that are made?

19 MR. BERNSON: Yes, we have considerable staff both
20 from our Chief Legislative Analysts Office and from the CAO's
21 office.

22 CHAIRPERSON ROSENTHAL: Okay, fine. It just seems
23 to me -- and I'm not suggesting that anybody will remove you
24 from their bill, but who knows what happens down the line. It
25 just seems to me that since you seem to be doing such a good job,
26 one of these other bodies wouldn't create a problem for you.

27 MR. BERNSON: Well, we just feel that it could create
28 a problem, because you're really running into another layer of

1 representation, actually, and essentially, the people who could
2 represent the ratepayers could be elected from a far smaller
3 eligible group who may choose to participate in this particular
4 thing, particularly since they have to subscribe to it, whereas
5 the voters of Los Angeles and other municipal communities do not
6 have to pay any fees to subscribe. They merely have to register
7 and vote for those elected officials that may represent them.

8 We do feel that we're a lot more responsible because
9 we do directly face the voters and we are a lot more careful and
10 responsible with our actions than perhaps even a CUB might be.

11 CHAIRPERSON ROSENTHAL: So, you think the citizens
12 of Los Angeles think that you're doing a good job and would not
13 vote for an elected PUC because you're doing such a good job.

14 MR. BERNSON: We would hope that they feel we're doing
15 a good job, but I think that if you compare the rates of the
16 Department of Water and Power and other privately-owned
17 organizations throughout the state, I think you'll find that our
18 rates are appreciably lower. I think that would indicate that
19 we're doing a pretty fair job and that we are extremely conscious
20 of ratepayers' interests.

21 CHAIRPERSON ROSENTHAL: Okay, very good, thank you.

22 MR. BERNSON: Thank you very kindly. I appreciate
23 the opportunity to appear briefly.

24 CHAIRPERSON ROSENTHAL: Thank you.

25 All right, now we'll follow the agenda as we have
26 outlined it.

27 And I want to welcome Mr. Victor Calvo, a former
28 Assemblyman with whom I served on the committee in the Assembly

1 on Resources Energy and Land Use. And, so, you may just proceed.

2 MR. CALVO: Thank you, Mr. Chairman.

3 I am Victor Calvo, Public Utilities Commissioner,
4 and with me is Jan Kerr who is our Chief Legal Counsel.

5 It is certainly a pleasure to appear before a former
6 colleague and a personal friend, one whom I have great confidence
7 in.

8 The purpose of your meeting I think is a good one,
9 and that is to explore the possibility of expanding public
10 participation in PUC proceedings. This has been of concern to me
11 and to my fellow commissioners over the last several years, and
12 it is not a new concern for us.

13 The responses to your questions are presented in a
14 formal document that has been circulated. What I will try to do
15 today is try to spend a few moments with you on actions that took
16 place before the Commission last Wednesday, just two days ago.
17 The Commission at that time passed out three orders that were
18 involved in furthering consumer intervention and activity in
19 Commission proceedings.

20 First, we appointed an acting public advisor pursuant
21 to last year's AB 2537.

22 Then we also approved new rules for compensating
23 individuals, participants, who make substantial contributions to
24 PUC proceedings.

25 And then we also granted a request to a San Diego-
26 based group, the Center for Public Interest Law, allowing a non-
27 profit consumer group, known as Utilities Consumers Action Network,
28 to communicate with customers through the use of utilities

1 billing procedures.

2 These three actions occurred during one day's meeting
3 of the Public Utilities Commission.

4 The first one that I will briefly discuss is that
5 which allows compensation for participants.

6 A significant hardship case must be made as well as
7 the test of substantial contribution. Both those tests must be
8 passed before the Commission will allow a contribution to be made,
9 or compensation, that is, to the organization or the individual.
10 The decision was based on the Commission's past experience with
11 PURPA which relates strictly to energy matters. That's the
12 federal authority allowing us to grant these intervenor fees, the
13 Public Utility Regulatory Policies Act. We have had experience
14 in that field. We've expanded that now to allow intervention in
15 all major Commission matters other than transportation. We intend
16 to take a look at that at a later date again.

17 We also feel that we have authority within the
18 statutes and to case law to allow us to make the expansion
19 proceed as we have decided.

20 A few remarks on the UCAN decision, that is, the
21 extra space usage in the billing procedures for the San Diego
22 area.

23 That decision followed some rather lengthy hearings,
24 and the San Diego law center was the first group to accept an
25 invitation that was issued in a PG & E case by the PUC in
26 December of 1981 for that particular avenue of public presentation
27 to be made. We have now allowed four entries into the billing
28 process. It's not restricted just to one group; we will consider

1 others coming in. And, of course, the key factor here is that
2 there has to be this excess of space available that would keep
3 the mailing under one ounce and we are willing to try it for a
4 two-year period and then review the matter again.

5 Now, the third action that we took was the appointment
6 of a public advisor. The individual selected by the Commission
7 pursuant to AB 2537, the Duffy Act, is here with us, and I'd like
8 to introduce her to you, Katherine A. Johnson. She has -- if you
9 would stand, Katherine, I would appreciate it. She has
10 experience in matters of this nature. She was formerly project
11 director and a member of the Board of Directors of the
12 San Francisco Consumer Action which worked with the California
13 Energy Commission and is now on our staff.

14 The measure did not -- the law did not allow us
15 additional revenue for this office, and we feel that we're going
16 to have to have more legislative support if this is going to be
17 a meaningful position. We did have already an ombudsman from
18 our legal staff and we also had a liaison, a public liaison
19 officer. That position was unfilled because of the retirement
20 at the end of the year of our prior officer.

21 Those are the three actions that we've taken and I
22 think they're significant and in line, as I mentioned at the
23 very beginning, of this Commission's position of inviting the
24 public to participate and put them on an equal basis with all of
25 the other experience and expert witnesses that we had in these
26 very complex procedures.

27 CHAIRPERSON ROSENTHAL: Very good.

28 Let me just -- we're really dealing with perceptions.

1 I'm not suggesting that the PUC doesn't do the job, that there
2 aren't, you know, some consumer groups that are appearing before
3 the PUC. But the perception is that the PUC is really in the
4 pocket of the utilities. I don't believe that's so, but I'm
5 talking about perceptions. There's a concept that the utility
6 asks for an increase and they get an increase, and maybe they
7 don't get it as high as they ask for, and maybe one of the
8 problems is that you meet only in San Francisco. Consider, for
9 example, that Los Angeles County has 40 percent of the total
10 population of California, and, really, Los Angeles groups don't
11 know what's going on in San Francisco. And I know we have people
12 who are up there and making presentations, but that never gets
13 around to average citizens down in Los Angeles. How do you
14 respond to that?

15 MR. CALVO: Well, the way that I would respond to it
16 is that traditionally, the PUC has been located -- it's by
17 Constitutional provision -- in San Francisco. We do hold hearings
18 in this very building on all of the major cases and we make an
19 effort to get out into the lesser communities whenever possible.
20 However, the last two years, we've had very restrictive travel
21 budgets. We would like to come down here as often as possible.
22 I think we ought to be seen more in the southern part of the
23 state, but we find it very difficult to really address that issue
24 with the travel allowance that we have. But the Commission is
25 headquartered in San Francisco and most of the activity will be
26 occurring there, but I think that the major rate cases are being
27 decided, in fact, here. We ought to hold most of the hearings in
28 Southern California. But it isn't just the fact that the

1 Commissioner's coming down. When we do that, we have to come
2 down with full staff, and it is a rather expensive undertaking.

3 CHAIRPERSON ROSENTHAL: I understand that the
4 travel dollars have been cut, that it's during this same two-
5 year period that most of the increases have taken place, and --

6 MR. CALVO: Right.

7 CHAIRPERSON ROSENTHAL: -- so that people in Southern
8 California, it's clear that they're really not getting a fair
9 shake, for example.

10 MR. CALVO: I'd like to make a statement, if I might,
11 Senator, make one comment about the perception of the Commission
12 being in the utilities' pocket. That depends with whom you
13 communicate. I've been there now for a little over two years, as
14 you know. As a state legislator, as least half of the mail I got
15 was complimentary.

16 CHAIRPERSON ROSENTHAL: Right.

17 MR. CALVO: I've received as many as 300 letters in
18 one week and I'm still waiting for my first complimentary letter.

19 So, when we make a decision, it's too low or too high,
20 depending on the viewer's opinion.

21 CHAIRPERSON ROSENTHAL: Well, I thank you very much.
22 I appreciate your coming down to Los Angeles to testify.

23 MR. CALVO: I'll be around here for at least another
24 hour --

25 CHAIRPERSON ROSENTHAL: Very good.

26 MR. CALVO: -- if the people have any pertinent
27 questions.

28 CHAIRPERSON ROSENTHAL: Thank you very much.

1 MR. CALVO: Thank you.

2 CHAIRPERSON ROSENTHAL: Now we're going to have the --
3 a panel here of consumer organizations. Larry Gross, Coalition
4 for Economic Survival; Harvey Rosenfield, CalPIRG; Harry Snyder,
5 Consumer's Union and Walter Zelman, Common Cause.

6 Incidentally, before we proceed further, let me just
7 announce that as we come to some place of someone's name on the
8 agenda who does not happen to be here, we will skip that person,
9 but when that person arrives, we will then go back to placing
10 them as if they were the next one in line.

11 Also, at this time, I would like to introduce my
12 staff.

13 We have Ann Gressani on my right and John Herrington
14 on my left, two consultants to the Energy and Public Utilities
15 Committee, and Patti Stearns who is the secretary to the
16 committee.

17 We're expecting -- I thought they would have been here
18 already -- two other members of the committee. When they come in,
19 I will introduce them.

20 Okay, panel, and you may do it any way you like. As
21 I've indicated, you know, we don't want written statements.
22 We'll take them as part of the proceedings. We'd like to have
23 you tell us what you think ought to happen.

24 MR. SNYDER: Thank you, Senator Rosenthal. My name
25 is Harry Snyder. I am the West Coast Director for Consumer's
26 Union of the United States Nonprofit Publisher of Consumer Reports
27 magazine. That usually sets off bells.

28 We have over 2.5 million subscribers in the

1 United States and approximately 300,000 subscribers in the State
2 of California.

3 The reason we're here today is first of all to
4 congratulate the Public Utilities Commission on its forthright
5 and far-thinking action in adopting three proposals to encourage
6 public participation in government action and decision-making.
7 We think that that may have shown the way and we hope the
8 Legislature will follow suit and that the Administration will
9 adopt and sign what the Legislature passes.

10 Consumer's Union is involved in all phases of public
11 participation in government decision-making, and it's a key issue
12 to us. While the West Coast office does not participate in the
13 ratemaking proceedings per se, we have been involved in any
14 number of issues involving increasing the public's access to
15 government decision-making.

16 I think that the package that the Legislature has
17 before it that you've outline is a good package because it takes
18 advantage of a variety of ways that the public voice can be heard
19 in these very important arenas. Various people today, I'm sure,
20 will favor one part of the package over another part of the
21 package or perhaps even have other devices which would enhance
22 public participation.

23 It's our position here that the widest possible public
24 participation package is the best one. We think the center of a
25 package would be a CUB proposal, as your bill provides for. The
26 reason for this is that it would be the only truly independent
27 marketplace assurance that the consumer voice is going to be
28 heard in public utility ratemaking. The reason I say that is

1 because it gives the consumers an opportunity to organize; it
2 facilitates organization in a way in which the Legislature has
3 traditionally facilitated groups organizing to protect their own
4 interests. It costs nothing to the taxpayers; it will survive as
5 long as it does a good job; and I have every expectation that in
6 California it will do an excellent job. It will not solve all
7 of the problems. We don't think that we can start turning rates
8 down, but we do know that there is another perspective to what
9 should go into rate bases, as to how they should be calculated
10 and to how consumers can best be protected when rates are
11 increased if they are necessarily increased. And we think that
12 a group that represents only consumers that's funded by those
13 consumers and beholden to them and accountable to them is the
14 best way to assure that those voices are heard.

15 I'd be happy to answer any questions after the panel
16 is through.

17 CHAIRPERSON ROSENTHAL: Thank you.

18 Yes, sir.

19 MR. GROSS: My name is Larry Gross. I'm the
20 Coordinator of the Coalition for Economic Survival. We're a grass
21 roots, multiracial organization, and we've been in existence 10
22 years, and through most of those 10 years, we've had concrete
23 experience in dealing with utility rate hikes and participation
24 with the PUC and with the Department of Water and Power.

25 In 1911, Hiram Johnson set up the Public Utilities
26 Commission with saying that we have to control the utilities or
27 else it will control us. I think that his incite into the
28 situation was very clear; I think, though, his vision of a

1 mechanism to deal with it has fallen far short. The role of the
2 PUC, as you have stated, in the minds of a lot of consumers, has
3 not been strong enough in dealing with the -- what has been
4 almost a tidal wave of great increases, and there's a feeling,
5 I think, there that what's really happening here is a situation
6 of almost like corporate extortion in that the utilities have the
7 goods, they demand a ransom through the rate hike, the Public
8 Utilities Commission which feels a responsibility to insure these
9 goods to people and with the lack of staff or knowledge are
10 inundated with masses of volumes of statistics saying that if we
11 don't get it, we won't be able to serve the people and may cut
12 the increases, saying, "Hey, we've done a good job, we've gotten
13 the rates down somewhat." But the reality of the situation is
14 that people are still hit with massive rate increases.

15 And we have a new economic situation here in which
16 inflation is up, people are out of work, people cannot afford to
17 pay bills. We deal with these situations on a day-to-day basis
18 and in the last period of time with these new wave of increases,
19 I can contest that we are getting literally 15 to 20 phone calls
20 from people who cannot pay their utility bills. They're out of
21 work, they're seniors on fixed incomes and they can't pay it.
22 And we're talking here, not about a luxury, but about a basic
23 necessity. The people need these utilities and I think that we
24 need to create mechanisms such as CUB to try and grasp this
25 problem.

26 I think that one of the big problems in this
27 situation is the lack of input into ratepaying decision-making in
28 that people feel helpless when they hear these rate increases

1 coming down. What can we do? They need it; they're going to get
2 it.

3 We've participated in a number hearings and it's hard
4 to input into a utility rate increase hearing. First of all, it's
5 hard to get people involved in that, as was stated, most of the
6 activity takes place in San Francisco. They do occasionally
7 have hearings in Los Angeles but they're usually one hearing in
8 this building in the morning, which cuts off the accessibility
9 of people's input in that working people can't get down here;
10 they work. People in the outlying areas can't get in here
11 because it's too far to travel or they don't have a car or the
12 gas situation. So, people really don't have accessibility into
13 these hearings.

14 The other situation is that for a lot of people these
15 hearings are too technical, that they don't understand the ins
16 and outs. They know their rates are going up, but they don't
17 understand that it's -- why that's the reason, and they have a
18 gut feeling that something's wrong.

19 And the situation with the PUC is that these public
20 hearings are sort of off to the side. You have technical hearings
21 and then public input, and that's sort of like to let people get
22 their steam off their chest.

23 Another situation is that I don't think people who
24 speak spanish can enter into this area and into these hearings
25 because there is a language barrier. And if anyone wants to
26 advance new ideas, they don't have the opportunity to do that.

27 I think that CUB is a good form of trying to deal
28 with these problems.

1 And I just want to differ with Councilman Hal
2 Bernson who says that we don't need it as far as the Department
3 of Water and Power. In dealing with the Department of Water and
4 Power, in a lot of cases, there's been less accessibility to
5 rate-hike cases than there has been with the private utilities.
6 I think that they just take you for granted. "Well, we're the
7 city council, we've been elected by the people so we represent
8 you." But that's not the situation, and I think that CUB, if
9 passed, must extend to the Department of Water and Power and the
10 municipally-owned utilities.

11 I think that if we're going to look at as far as what
12 consumers want as far as input, I think we're talking about more
13 consumer participation and we listen to what consumers are
14 proposing. And it's clear that the CUB bill has been the bill
15 put forth by consumer groups throughout the state. Over 60
16 organizations, labor and consumer groups, have stated that we
17 want CUB. And if this panel and if the state Legislature is
18 really concerned about citizen participation, then we feel that
19 CUB is the way to do it.

20 Thank you.

21 CHAIRPERSON ROSENTHAL: Thank you.

22 MR. ROSENFELD: Mr. Chairman, my name is Harvey
23 Rosenfield. I'm a staff attorney for the California Public
24 Interest Research Group.

25 We'd like to thank you first of all for having
26 provided the opportunity for people in Los Angeles and those of
27 us from around the state to discuss consumer participation. And
28 we want to commend you also for your introduction of the CUB bill

1 this year and your strenuous support for it.

2 CalPIRG's an environmental consumer organization with
3 over 40,000 members in California, and over the years, we have
4 endeavored in our role as a consumer advocate to become involved
5 in utility issues and regulatory proceedings, but the plain fact
6 of the matter is that we do not have the resources nor the
7 expertise to mount the kind of campaign necessary in the
8 Legislature or in the PUC when it comes to utility matters. It
9 costs about \$100,000 or more to mount an effective intervention,
10 and it's for that reason that last year we decided to begin a
11 campaign to establish a Consumer Utility Board in this state.

12 We view CUB as the opportunity to provide a presence
13 for ratepayers in utility proceedings in this state. It's a
14 measure of the concept's need, I think, that this year, after the
15 events of last year, just about every expert on the subject has
16 agreed that consumer representation must be increased in the
17 utility proceedings. And, of course, the PUC several days ago
18 recognized the viability of the CUB concept by establishing the --
19 what is essentially a CUB just for San Diego Gas & Electric rate-
20 payers.

21 There's only one group of payers in this state left
22 that don't support the idea of more consumer representation, and
23 that is the utility companies. And frankly, we are shocked that
24 given the fact that the utility companies have asked the PUC for
25 over \$12 billion this year in rate requests, that these companies
26 feel as if the consumers are already adequately represented and
27 don't need anymore representation.

28 We wonder what the utilities are afraid of. We did

1 a study which we released this week which indicated that the
2 utilities since 1975 have spent more than \$24 million lobbying
3 the Legislature and the PUC on behalf of their positions on
4 issues. On the average, there were more than 50 lobbyists from
5 all of the utility companies in Sacramento. Could they have so
6 much to fear from one or two consumer advocates there on a full-
7 time basis?

8 The utility companies' constant high-power lobbying
9 efforts to block the creation of a CUB for California can only
10 be interpreted in a cynical fashion by ratepayers who feel as if
11 the utility companies cannot stand behind what they submit to
12 the PUC and what they do in Sacramento; that the utilities cannot
13 withstand public scrutiny by professional advocates. That's the
14 only impression that California ratepayers can have from the fact
15 that the utility companies have strenuously opposed CUB in the
16 past.

17 Finally, I think it's important to note that support
18 for increased consumer participation is actually critical to the
19 utilities themselves. It's simply a matter of bad judgment that
20 Pacific Telephone, among many of the telephone utilities and all
21 the utilities in this state, was up in Sacramento last week
22 opposing the CUB legislation vociferously.

23 As an example, Pacific faces in the next few years
24 cataclysmic events brought on by the AT&T divestiture. That
25 company is going to need the support of every ratepayer in this
26 state in order to go along with what might be a tripling of
27 their basic monthly service charge, according to the company
28 itself.

1 So what we're talking about is an opportunity for
2 the utility companies to show their consumers and their rate-
3 payers that they actually believe in what they're saying.

4 We warn the utilities, finally, not to miss the
5 message that consumers are delivering to you now. You have to
6 listen to the words of not only these consumer groups represented
7 at this table right now, but also of those representatives of
8 consumer groups that were formed last year directly as a result
9 of what is popularly known the rate rebellion in the norther part
10 of the state. They have their own perspectives and they have
11 been trying to share them with many of the legislators and many
12 of the utility companies themselves.

13 I guess this is mostly addressed to the utility
14 companies because I think that the Legislature and, of course,
15 the PUC are beginning to address the issue seriously. We urge
16 the utility companies to join with us in support for this
17 important consumer reform right now.

18 Thank you.

19 CHAIRPERSON ROSENTHAL: Thank you.

20 Let me first of all, before we go any further, I
21 want to introduce two members of the Legislature who have just
22 joined us, Senator Montoya who is on the Energy and Public
23 Utilities Committee and Assemblyman Tom Hayden who is a member of
24 the Assembly committee, I believe, dealing with the similar
25 subjects. I also want to introduce another member of our staff,
26 and that's Laurel Barton, sitting on the end there who I didn't
27 notice before, and she is a Fellow that's been assigned to the
28 energy commitee for this year.

1 MR. SNYDER: Senator Rosenthal, if I might just add
2 one more thing. I noticed that I made a -- there was an oversight.
3 I should have also stated and paid homage to those consumer
4 advocates that have been intervening in ratemaking proceedings up
5 to date. Their success, I think, in that procedure is one of
6 the things that's created credibility for the concept that
7 consumer participation is going to be very valuable. They've
8 labored long and hard against overwhelming odds and have brought
9 off successes which have modified PUC actions in favor of the
10 consumers. It's because of that success that we want to
11 strengthen the consumer's hand in those ratemaking proceedings.

12 There's also one other thing, and that is to say,
13 with all due respect to the PUC staff, they too have their limits,
14 and this is not necessarily a criticism of the PUC staff, to
15 suggest that the procedures could be improved by having more
16 public participation.

17 CHAIRPERSON ROSENTHAL: Let me ask the panel a
18 couple questions and one of you can respond.

19 How do you respond to the utilities' charge that the
20 mandatory bill insert violates their First Amendment freedom?

21 MR. ROSENFELD: Mr. Chairman, it's an interesting
22 argument that corporations would claim a right to freedom of
23 speech. The Supreme Court of the United States has upheld the
24 concept and has made a decision that the utility envelope, the
25 bill envelope, is not the property of the utility companies but
26 it is the property of the ratepayer. And so it's clearly not
27 unconstitutional. That has already been litigated.

28 CHAIRPERSON ROSENTHAL: Do you think the groups that

1 you represent would support an elected PUC?

2 MR. SNYDER: I can't speak for 300,000 Californians
3 as a group, Senator, but my suspicion is that if significant
4 reforms are not forthcoming from the Legislature which give
5 consumers some hope that they will have a voice in ratemaking
6 proceedings that a more direct route will be sought.

7 CHAIRPERSON ROSENTHAL: Any questions from the
8 committee?

9 Thank you very much for your presentation.

10 MR. SNYDER: Thank you.

11 CHAIRPERSON ROSENTHAL: Moving right along and right
12 on time.

13 Mr. Zelman, the panel that you were on has just
14 completed. If you think you have something to add, I'll give you
15 a minute.

16 MR. ZELMAN: I'll take a minute.

17 CHAIRPERSON ROSENTHAL: Take a minute.

18 MR. ZELMAN: I think that -- I'm from Common Cause.

19 We feel that a variety of the proposals that have
20 been put forward will solve this problem and might get at some of
21 them. I think the Citizens Utility Board is the best approach.
22 It has several advantages that the others don't afford. It
23 allows an organizing force to take place, which the others don't
24 allow. It seems to offer better opportunity for citizens to
25 organize a lobby, not only in sophisticated testimony before the
26 Public Utilities Commission, but before the Legislature and in
27 the community, and the others don't seem to allow for this kind
28 of opportunity.

1 It also offers greater accountability to ratepayers
2 and consumers directly as opposed to direct accountability to
3 the PUC or accountability to the Attorney General.

4 The other thing I'd suggest in the most general of
5 terms is that I feel that California may be losing its
6 progressive element. By progressive, I don't mean liberal
7 versus conservative; I mean it's willingness to take a chance;
8 it's willingness to try something different; it's willingness to
9 be daring and confront new ideas. And the Citizens Utility
10 Board is such an idea. The unique element of it is that it
11 enables the citizen group to go out and organize in virtually
12 the only way it can, by finding an inexpensive mechanism to get
13 to large numbers of people and to offer them an inexpensive way
14 to participate in politics. If a group were to try to go out
15 and try to raise \$25 or \$50 in contributions to join some
16 citizens force working on utilities, you couldn't get off the
17 ground. The costs of organizing and the costs of direct mail is
18 so extravagant that such a group could never succeed and get off
19 the ground. If you want to get the large amounts of money
20 necessary to sophisticatedly intervene in ratepayer cases as well
21 as be a potent lobbying force before the Legislature and affect
22 the public, you've got to give them some means of getting at the
23 really serious financial base. This is a great way to do it; it's
24 an innovative way to do it. It may be imperfect. I'm sure it's
25 not working perfectly in Wisconsin and I'm not sure if it will
26 work perfectly here.

27 But it's an interesting idea, I think it's a daring
28 idea, and I think it ought to be tried.

1 CHAIRPERSON ROSENTHAL: Thank you very much.

2 MR. ZELMAN: You're welcome.

3 CHAIRPERSON ROSENTHAL: Now we'll have a panel
4 representing the public utilities.

5 John Dennis, Assistant Vice President, Pacific
6 Telephone; Vince Master, Assistant General Counsel, San Diego Gas &
7 Electric; Peter Hanscher, Attorney, Pacific Gas and Electric;
8 Karen Smith, Regulatory Matters Director of General Telephone;
9 Del Williams, President, Continental Telephone.

10 As I've indicated to each one before, the Committee
11 would prefer that you not read your statements, but provide them
12 for us. They'll all be a part of the hearing and you will get
13 copies of the total hearing as soon as they are available.

14 So, I don't know how -- you can start and introduce
15 yourself for the record.

16 MR. DENNIS: Thank you, Senator Rosenthal.

17 My name is John Dennis and I represent Pacific
18 Telephone.

19 I have submitted written responses to the requests
20 in your letter, and I will just briefly add to that in my
21 opening remarks.

22 Pacific Telephone recognizes the importance of
23 consumer input into the ratemaking process as well as into the
24 daily management of the business. Recognition of that is evi-
25 denced by the fact that we have several consumer-type councils
26 that we utilize on a day-to-day basis to gain input into our
27 process.

28 As far as the ratemaking process is concerned, I feel

1 personally that the California Public Utilities staff provides
2 adequate and expert representation from the consumers into the
3 ratemaking process. During the course of their surveillance,
4 during the course of the year, surveillance of the utilities that
5 they regulate, they have constant input from the consumers, and
6 that's reflected in representations before the commission as it is
7 ours in the ratemaking process.

8 In addition to that, we feel that the ratemaking
9 process itself produces substantial additional input as is
10 evidenced by the number of the consumers who participate in each
11 and every one of the ratepaying processes. It isn't that we
12 object nor fear, as has been indicated earlier today, to any kind of
13 consumer input into the process; we simply feel that it is there
14 adequate today to satisfy the needs of the consumer.

15 CHAIRPERSON ROSENTHAL: Thank you.

16 Yes, sir?

17 MR. WILLIAMS: My name is Del Williams, Continental
18 Telephone.

19 Senator, I think you hit on the pulse of the thing
20 when you mentioned perception. Certainly that is the problem.
21 It's certainly my view that the Public Utilities Commission has an
22 excellent staff of some 1000 people and is generally considered as
23 being one of the outstanding regulatory agencies in the United
24 States.

25 Now, from that standpoint, I'm afraid that to the
26 extent that a CUB is employed, you may damage the perception, the
27 public's perception of that body. I'd like to give you, if I
28 could, a little example of what happened to my organization in

1 Nevada last year.

2 Nevada has a consumer advocacy agency that reports to
3 the Attorney General of Nevada. Now, we filed a rate case in that
4 state early last year and the press releases began to fly and the
5 basic battle over that rate case was handled in the newspapers
6 between the consumer advocacy agency and the Attorney General and
7 the PUC, each trying to make stronger statements about what bad
8 guys Continental Telephone were in that state. Consequently,
9 there was an awful lot of heat created and a lot of distress
10 created in the public's eyes about what was really occurring, and
11 the perception of Continental Telephone, and that ended up that
12 the PUC suffered as a result.

13 Now, it's not a coincidence that the former Attorney
14 General in Nevada is now the Governor. So I suggest that we be
15 very careful with any agencies we set up so that we do not damage
16 the perception of the public in terms of the quality of the job
17 being done.

18 Along that line, it would seem to me that the best
19 approach would be to expand the concept that was started by
20 Duffy's bill of last year, AB 2537, and expand that role under
21 the auspices of the PUC and provide some funding to assist
22 consumer groups to participate in the process.

23 And that would be my opinion on who it should be
24 best approached.

25 Thank you.

26 CHAIRPERSON ROSENTHAL: Thank you.

27 Yes, ma'am.

28 MS. SMITH: Good morning, Senator Rosenthal.

1 My name is Karen Smith and I'm representing General
2 Telephone.

3 The two gentlemen who just spoke, I'm not going to
4 repeat what they said, but I think that most of the points that
5 they made I was going to cover, and they did it beautifully.

6 I would like to echo, though, the fact that I have had
7 experience now in 23 different regulatory jurisdictions and I
8 have the highest respect for the California Public Utilities
9 Commission. I think California should be very proud of its
10 regulatory body and I would hate to see it damaged as far as
11 perception. And it is a perception problem. Unfortunately, I
12 believe that people think that if any increase is ever granted,
13 then there must not have been an effective representation of the
14 consumers, and I think that that's intensified during times when
15 the economy is on the downturn. And to make a comparison is,
16 that when you're down it seems like everybody keeps dumping on
17 you; and when you're up, you're up. And so I really do believe
18 it is a perception problem.

19 But I think that for us to try to create a policing --
20 and that's almost what I look at this as -- is a policing agency,
21 to police a regulatory body legislated in with staff employees
22 and commissioners, that all we're doing is that we're trying to
23 duplicate the regulatory process that's already in existence.

24 I would like to say, though, that maybe what we should
25 do is what the gentlemen on the right just said, is that right
26 now -- we heard a comment earlier -- that there are not enough
27 hearings in the Los Angeles area, that they do not get to see the
28 commission staff people down here, they do not get to see the

1 commission, and I think that Commissioner Calvo put it very
2 tactfully. They would love to come down here, they would love to
3 conduct the Southern California cases in Southern California. It
4 would be an advantage, not only to the commission, but to the
5 companies and to the consumers located in that part of the state.

6 But there's one problem and that one problem is the
7 funding of the California Public Utilities Commission.

8 In essence, what I would like to say is that this is
9 a very beneficial hearing and I think that it's the type of thing
10 that you've given the people in this part of the state something
11 like they feel they have not gotten, and that is a chance to
12 speak their mind, mainly because of the hearings and that body
13 that seems to be so far away in the northern part of the state.

14 Thank you.

15 CHAIRPERSON ROSENTHAL: Let me just ask a question,
16 and maybe some others can touch on it.

17 How do we deal with perception, given what is? You
18 know, I think that we can all agree that the problem is partially
19 perception, partially something else. How do we deal with it?

20 MS. SMITH: I'd like to maybe take a stab at that.

21 I think one of the things that we could do, I think
22 that there is always room for improvement. There's improvement
23 in communicating with the public in which you serve. For example
24 of course, I represent a telephone company -- a simple comparison
25 of the telephone rates in California versus virtually any other
26 state across the United States will show you the job that the
27 regulatory body has done in this state. Another comparison that
28 can be made is taking a look at the financial standings of the

1 California utilities versus the other utilities across the
2 United States.

3 And I think there also is -- you know, if you under-
4 stand what is happening and the reason for it, you may not like
5 it, but you may be more willing to accept it. And I think that
6 is a communications problem and better presentation on the issues.

7 CHAIRPERSON ROSENTHAL: Well, I think it is a
8 communications problem in some respects, but let me tell you that
9 I doubt very much that you could go out to the corner here and
10 tell somebody that because our rates are cheaper than they are
11 someplace else, therefore, they're getting what they ought to be
12 getting. I don't think you can sell that. I don't know why
13 they're cheaper someplace else and nobody else does. And I see,
14 for example, the things that come in the billing, and in my opinion
15 the stuff that comes from the utilities to the users is from your
16 point of view maybe making some sense. Nobody is reading it,
17 it's gobbledygook, you don't know how to present your story.

18 You know, it just seems to me that something
19 different has to take place. You know, nobody reports to the
20 consumers when in fact a rate is reduced by the PUC. And, so,
21 the perception is that, you know, you get whatever you're asking
22 for, and I know that that's not so. But there's no -- even the
23 consumer groups that do appear -- and they do and make fine
24 presentations -- there's no way that they can communicate to the
25 other consumers about the good that they've done. They don't
26 have the financial background or the financial sums of money in
27 order to be able to do that. Someplace along the line it seems
28 to me, you know, it's -- I really believe that if we continue in

1 the way we're going, we're all going to have problems that we
2 don't want. I firmly believe that.

3 And it seems to me that the utilities at some point
4 need to come forth with not "We're against that, we're --" you
5 know, "We don't like that; we like everything the way it is," but
6 make some suggestions about what ought to take place, what ought
7 to change, to change those perceptions, to give people a feeling
8 that, in fact, they do have some input that they believe is
9 effective.

10 In other words, just opposing bills that come up in
11 the Legislature, I grant you that you may be able to do that for
12 awhile, but I've seen what happens when the Legislature does not
13 respond to the constituents, then the initiative process in
14 California takes over, and that's not the way we should be going.
15 Whatever is going to happen ought to come through the legislative
16 process where you have the fine tuning and the development of
17 something that maybe nobody is completely happy with.

18 But I must tell you that sitting on a committee when
19 you've got two opposing points of view and you have something
20 in between that both of them are unhappy with, that's probably
21 what ought to happen.

22 So, I think that you need to think in terms of how to
23 solve the problems of what consumers perceive to be the problem.

24 Yes, sir.

25 MR. HANSCHER: Senator, I'm Peter Hanscher and I
26 represent Pacific Gas and Electric Company at the hearing today.
27 I am a lawyer in charge of PG & E's regulatory section.

28 I would like to address your question on the

1 perception of what's happening at the Public Utilities
2 Commission today and what's happening with energy prices in
3 general.

4 It's certainly no new fact to me that the public is
5 upset about high energy costs. We are not the most popular
6 person right now at a cocktail party. I suspect the CPUC staff
7 may have some of the same feelings.

8 CHAIRPERSON ROSENTHAL: And legislators.

9 MR. HANSCHER: And legislators probably, too.

10 Let me say one thing, though, is I think you're
11 kidding yourself that you think that by establishing a CUB is
12 that in fact you're going to have a communication with the
13 consumer groups that the utilities prices have gone down for some
14 reason. I think the CUB will be just like the newspapers are
15 today. Essentially, in the last year, PG & E has had a \$1 billion
16 decrease in electric rates. It is hidden on page 15 of the daily
17 newspaper when that occurs, and yet with every rate increase,
18 which are usually a matter of fuel offsets with no additional
19 income to the company, is that it's splashed all over the headlines.
20 I think you'll find the exact same thing with the consumer group
21 here, is that the decreases that do occur are largely acts of
22 God. It's a good hydro year, that's all there is to it. That's
23 why we have a billion dollar decrease. OPEC has fallen into a
24 set of disarray. That's why we have oil prices decreasing. It
25 would be awful hard for a consumer group to take full credit for
26 those.

27 Let me tell you where I think the consumer groups
28 that we have today have been very active and have been very

1 successful. And we have, up until this last January 1st when
2 baseline rates went into effect, lifeline rates were in effect
3 pursuant to legislative mandate and the implementation by the
4 CPUC. We saw in our gas rates for the first year of gas rates
5 that PG & E was offering to the residential customer, is that was
6 below the commodity cost of gas. It did not even cover the
7 average cost per MCF for purchase of the gas, let alone the
8 service of the investment amortization of the investment.

9 I think that the existing consumer groups that
10 appeared before the CPUC were very vocal, were very instrumental
11 in getting that rate. I think the CPUC staff also in that
12 instance represented the consumer interests very well.

13 I may be reiterating something that's been said here
14 today a couple times already, but I have practiced in front of
15 a number of regulatory commissions. I have practiced on a federal
16 level for a number of years. I've seen other regulatory bodies,
17 and without a doubt I believe that the CPUC staff is one of the
18 best ones around because they are innovative, they're hard-working,
19 they're fair. I think if there is a bias, it tends to be on the
20 side of the residential consumer, and that's not coming through
21 at all. And in my mind is -- the answer to that is really is
22 to provide the PCUP with adequate funding, provide them with
23 adequate means to come to the local community to put on their
24 hearings, and I think that you'll see that you do in fact have a
25 very good regulatory body in California.

26 One other fact on this is, I really question again is
27 are we going to make the CPUC look any better by having a CUB,
28 a monolithic type consumer representation? I have a feeling they

1 are going to sit back and snipe, not only at the utilities, they're
2 going to snipe at the CPUC staff. That will further denigrate
3 the perception in the perception of the public of the CPUC staff.

4 Utility rates are a complicated matter, there's no
5 doubt about it, but it requires a careful balancing of interests.
6 If we simply have a single purpose, which I believe a statewide
7 CUB organization would have, is there going to be one purpose, to
8 keep residential rates as low as possible? That could have
9 severe effects on the industrial and commercial rates. Eventually,
10 as we saw a few years ago, as you lose industrial load, more and
11 more load has to be shifted to the residential customer. And
12 with that I think the bad will get blamed on the staff of the
13 utilities and it will just further denigrate them in the eyes of
14 of the public.

15 CHAIRPERSON ROSENTHAL: Thank you.

16 Yes, sir.

17 MR. MASTER: Senator, I'm Vincent Master representing
18 San Diego Gas & Electric Company, and we filed a rather lengthy
19 response to your letter of March 24.

20 And I would agree with Mr. Hanscher on the matter of
21 perception. I would go a little further, and that is I believe
22 the average residential ratepayer perceives that he's not being
23 represented before the Public Utilities Commission. I would add
24 that, at least in San Diego's case, the City of San Diego has for
25 a number of years, been adequately represented, representing
26 50 percent of the -- of all classes of customers inasmuch as
27 50 percent of our service territory is represented by the City of
28 San Diego, and they've done an admirable job in many of these

1 rate situations.

2 On the matter of perception, you've got many parties
3 involved that I think need to take some action. It was only in
4 the last few years that high rates have become an issue. Before,
5 let's say, 1975-76, rates were fairly stable and were affordable
6 to the average residential customer. Due to world oil supply
7 situations, bad weather in terms of lack of rainfall, and just the
8 rapid inflation over the past few years, rates have gone
9 relatively high.

10 So, we've got the media, the Public Utilities
11 Commission, the public utilities, the Legislature that need to
12 take some action. And I think that you have -- the Legislature
13 has Select Subcommittees now that are geared up to study the
14 problem, and you might end up with, as much as I dislike task
15 forces, you might just end up with a Governor's task force that
16 suggests what the Legislature should do, what are the guidelines
17 for legislation are, what the public utilities ought to be doing,
18 what the media ought to do. As Mr. Hanscher indicated, rate
19 decreases appeared on the last page sometimes in the media when,
20 in fact, the rate decrease is a significant event to utility
21 customers when their bills are going down. So, the media has to
22 take some responsibility in this too. So, if all the parties
23 work together and perhaps, you know, work to the interests of
24 insuring that all classes of service, including the residential
25 ratepayer, are adequately represented and can do their part,
26 then that might be the answer to clearing up what is the
27 perception problem.

28 CHAIRPERSON ROSENTHAL: Well, I guess, you know, with

1 all that's been said, it seems to me that we have a situation
2 now where the price of oil is going down. Large users of natural
3 gas are now switching to oil. The same amount of money is going
4 to be collected, and consequently, the ratepayer, the homeowner,
5 is going to be paying more when we have a surplus of natural gas
6 in California. It's difficult to explain that to anybody by just
7 saying, you know, "That's the way it is."

8 Anyway, I appreciate your being here today and we
9 appreciate your input.

10 And there's no question that we need to work together.
11 You know, I don't think the Legislature is trying to fight you.
12 We're just trying to figure out, you know, how to deal with a
13 problem that does exist. And it's all well and good to say,
14 you know, that there's got to be more money so that they can
15 travel around the state. We have a Governor who's cutting the
16 budget and having them spend less than they're spending now even
17 for what they're doing. So, I think that they're just going to
18 get aggravated. I haven't heard the utilities say that they
19 would pay for that transportation so that those utilities people
20 from the PUC can move around the state. That might be a
21 suggestion. It might make you a hero.

22 I think that -- I think that you need to do something
23 to reduce the hard feelings against you, and one of the thoughts
24 that I had is that if, in fact, there was some -- in other words
25 CUB intervenor, the Attorney General, the Governor's office -- I
26 don't care where -- if in fact the perception was that you come
27 in and you make your approach for an increase because of your
28 costs and now somebody is there representing the consumers and

1 the consumers are informed about what takes place, and how the
2 PUC makes a decision. You know what? You're no longer the bad
3 guy. Think about it. You're no longer the bad guy, because, in
4 fact, the consumers did have some input that they felt represent-
5 ed them.

6 Anyway, that's enough of that.

7 Does anybody else have any questions that you'd like
8 to ask?

9 Thank you very much. Oh, wait, wait.

10 MR. HAYDEN: Just a couple of quick ones. The
11 gentleman from PG & E, Mr. Hanscher?

12 MR. HANSCHER: Yes.

13 MR. HAYDEN: Thank you for the material.

14 Did PG & E support the lifeline proposal when it was
15 originally before the Legislature?

16 MR. HANSCHER: I don't know if they did or not -- no,
17 we did not.

18 MR. HAYDEN: But in retrospect, you think it worked
19 out to be a good idea.

20 MR. HANSCHER: Well, I'll tell you. I think that --

21 MR. HAYDEN: Well, I'm trying to indicate that that
22 was proof of it being effective for the consumers.

23 MR. HANSCHER: What I was trying to do was to
24 indicate, is, in fact, I did handle the implementation of the
25 lifeline proposal when the CPUC was doing their rate studies at
26 that time. I believe it was in 1978 or '77, in that area. And
27 at that time I saw Mrs. Siegel in there and a number of consumer
28 groups there who were pressing the cause of the lifeline advocate.

1 At the same time, as I know, out of that case, the implementation
2 of that case is that CMA ended up taking an appeal to the
3 Supreme Court. The appeal was granted at that time, the writ,
4 and we went back and we did some of the hearing work on it. So,
5 I know at that time -- in fact, in the actual implementation is
6 the company did not take a position in front of the CPUC as the
7 law was passed as we put together what we thought was an
8 implementation of the law, and it became a battle, then, between
9 some of the industrial customers and the residential customers on
10 its implementation.

11 MR. HAYDEN: But your company didn't endorse --

12 MR. HANSCHER: We put together -- pardon me?

13 MR. HAYDEN: Your company didn't endorse it.

14 MR. HANSCHER: At the legislative level? Mr. Frasier
15 tells me no.

16 MR. HAYDEN: Did you oppose it?

17 MR. HANSCHER: I really can't answer that,
18 Assemblyman Hayden, is that -- let me do comment on one of --

19 MR. HAYDEN: I just wanted to ask you another question,
20 and I just wanted to establish that.

21 See, my recollection is that the utilities opposed the
22 lifeline bill before the Legislature, and I just wanted to clear
23 that up. But just to pursue it for a second, would you say that
24 normally in the free enterprise system that large investors in a
25 company have representation on the Board of Directors on a
26 company?

27 MR. HANSCHER: I think that that would be a general
28 normal course of event.

1 MR. HAYDEN: How would you distinguish -- what
2 percentage of your capital comes from the ratepayers, your
3 investment capital?

4 MR. HANSCHER: Eventually, if I understand the
5 question correctly, through the depreciation expenses as applied,
6 it is eventually amortized through rates.

7 MR. HAYDEN: How would you distinguish --

8 MR. HANSCHER: Was that the nature of your question?

9 MR. HAYDEN: How would you distinguish between rate-
10 payers automatically, through the rate process, contributing to
11 your investment capital pool versus private investors? Do you
12 see a legal or a real distinction between ratepayer and private
13 investor?

14 MR. HANSCHER: Yes, I do, as I think the Supreme
15 Court --

16 MR. HAYDEN: Besides the legal distinction.

17 MR. HANSCHER: I think the Supreme Court of the
18 United States also sees a distinction.

19 MR. HAYDEN: You said, though, that the ratepayers
20 are investors?

21 MR. HANSCHER: No, I would contemplate them more as
22 renters than investors. Certainly the risk associated with the
23 investment still stays with the investor, the equity investor.

24 MR. HAYDEN: You don't believe that the ratepayers
25 take a risk, to which they're entitled to some return when they
26 put up the projects, similar to the projects in Alaska, for
27 example?

28 MR. HENSCHER: If you would explain how they're

1 subsidizing projects in Alaska, is, I would -- they are not, as
2 far as I know -- is if you're referring to the Alaska Natural
3 Gas Transportation Act, there is no facility being constructed
4 at the present time under that Act. There is no subsidization
5 at this time, and I would consider that a real anomaly of utility
6 ratemaking. The far more usual event of ratemaking is the
7 investor, the equity investor who invests in plants. He does not
8 take -- he does not get CWIP while it is being constructed. Once
9 it goes on line, the reasonable expenditures that were made by
10 the equity investor at that time in the utility go into rate
11 base, and the plant is recovered over its useful life.

12 MR. HAYDEN: Do anyone of you have anyone on any of
13 your Boards of Directors who is not from a corporation or a
14 corporate law firm?

15 MR. HANSCHER: Yes, we do.

16 MR. HAYDEN: Would that be Wilson Riles?

17 MR. HANSCHER: We have Wilson Riles. We also have a
18 woman -- her name escapes me right now -- some woman, but she's
19 not associated with a corporation.

20 MR. HAYDEN: Could you pass that information on to
21 us?

22 MR. HANSCHER: I can do that.

23 MR. HAYDEN: I'd be interested in that.

24 CHAIRPERSON ROSENTHAL: Let me ask one further
25 question from San Diego.

26 MR. MASTER: Yes.

27 CHAIRPERSON ROSENTHAL: To your knowledge, do you
28 think that San Diego Gas & Electric is going to appeal the

1 decision of the PUC regarding the UCAN?

2 MR. MASTER: Senator, I don't at this time. We got
3 the decision in our hands yesterday and we're reviewing it. I
4 can honestly say that I don't know what our lawyers, other
5 lawyers, are going to recommend to management, and that is whether
6 there is an infringement of our First Amendment rights such that
7 we feel necessary to seek protection of those rights by appealing
8 it or at least filing a petition for rehearing with the Commission.

9 CHAIRPERSON ROSENTHAL: Yeah. I'd just like to
10 suggest to you that you might want to take back that somebody
11 ought to think about what happens in San Diego to those
12 constituents if in fact you try to overturn what they now seem to
13 be supporting. I think you might think about perceptions.

14 MR. MASTER: Yes.

15 CHAIRPERSON ROSENTHAL: Thank you very much,
16 gentlemen.

17 MR. MASTER: Thank you.

18 CHAIRPERSON ROSENTHAL: At this point I'd like to
19 welcome to the Committee Mayor Ruth Yanatta Goldway, Mayor of
20 Santa Monica.

21 As I've told everyone, you know, not to read a
22 prepared speech but just giving us the gist, and if you have any-
23 thing to enter into the proceedings --

24 MS. GOLDWAY: I don't have anything that I might offer.
25 Thank you for inviting me today, Senator.

26 I feel somewhat ill at ease. I think I would have
27 felt much more comfortable sitting with the consumer panel, many
28 of whom are my friends of long standing and with whom I've been

1 working on these issues for many years. I hope that having
2 become an elected representative doesn't isolate me from their
3 good efforts.

4 One of the things that we have done in the City of
5 Santa Monica since my election and particularly since the group
6 I work with has been in the majority, is to use our City
7 Attorney's Office and the influence and power of the city
8 government itself to act as a consumer advocate on behalf of the
9 citizens of Santa Monica, and we have had over the last two years
10 specific regulatory experience with the Public Utilities
11 Commission. The City of Santa Monica intervened on the last
12 General Telephone rate increase request and participated for over
13 a year on that deliberation.

14 It's interesting that the utilities say that they
15 have a perception problem. When we told them that Santa Monicans
16 were dissatisfied with service provided in the City of Santa
17 Monica, they said, "Oh, that's your perception problem." So we
18 did an information poll. We put adds in the newspaper and asked
19 people to submit to us their opinion as to General Telephone
20 service and rates, and we had 85 percent of the respondents saying
21 that the General Telephone service was totally unsatisfactory.

22 They said, "Oh, well, that wasn't a statistically
23 relevant poll," when we submitted the information to the PUC.
24 So we asked the PUC Hearing Officer to require the telephone
25 company to do a poll. We don't have a citizens utility board
26 but we did want some more official, general consumer participation
27 and information submitted for the record. They refused to do so.
28 The Hearing Officer upheld them; we appealed it to the PUC

1 Commission itself, and they required a poll.

2 Just the mechanics of going through that procedure in
3 order to assure that there would be in the rate case hearings
4 some baseline information about citizen perception, about service.
5 So, several months and sophisticated legal maneuvers and hearings
6 in order to get the PUC to decide. And, in fact, their decision
7 was not what we suggested that allowed the telephone company to
8 hire a pollster and do their own poll without further consumer
9 input, but in spite of the fact that we were unsatisfied with the
10 mechanisms for doing the poll, it turned out that over 65 percent
11 of the people who responded were totally unsatisfied with
12 General Telephone's service. Clearly, it wasn't our perception
13 that was at fault; it was the utility's perception that was at
14 fault, and I think that it was a good lesson for General Telephone
15 and ought to be written larger for them statewide.

16 We were able, during the course of those hearings,
17 to present significant information about General Telephone's
18 service and rates so that the PUC did adopt the precedent-
19 setting decision requiring that if service falls below a certain
20 level in district areas -- not statewide measurement -- but
21 district areas, that those residents in those district areas
22 would benefit from a rate decrease. It's the first time that
23 service, genuine customer satisfaction, as the San Diego Gas &
24 Electric case was a second example, showed that there are pockets
25 of disconcern -- pockets of discontent that need to be addressed
26 by the Public Utilities Commission.

27 I think General Telephone, at least in my dealings
28 with them, now, ironically enough, their statewide headquarters

1 are in Santa Monica. They are our largest employer, and yet
2 they've provided us with the worst service in the state -- have
3 recognized some of their errors and have invested over \$60 million
4 in improving service last year and again this year and may, in
5 fact, admit that if they had been more attuned to customer concerns
6 and service questions, this whole problem might never have
7 occurred and they might have gotten a higher rate request than
8 they had actually gotten from the PUC; that it's good business to
9 communicate with your customers and to allow them to tell you
10 when they're dissatisfied.

11 What it seems to me the utilities are rejecting in
12 your proposal for a Citizen Utility Board or in Senator Montoya's
13 funding mechanism for ratepayer participation or in Assemblywoman
14 Moore's proposal for a consumer council is that unwillingness to
15 hear from the other side. I don't think any good business person
16 can do a good job unless they're willing to be open to hear the
17 other side. In this case, the utilities are regulated, they're
18 responsible to a public body for their decision and I think it's
19 good business practice to have the consumer input in that
20 regulatory process so they can hear it and the regulators can
21 hear it and make a fair decision.

22 There are, it seems to me, some important areas other
23 than just the dollars and cents of rates which are terribly
24 important especially when it comes to gas and electric costs.
25 Santa Monica has 23 percent of its residents as senior citizens
26 on fixed income. These increases are just devastating to them.

27 But there are other policy issues. There is this
28 question of service. Think of the senior citizen whose gas is cut

1 off in winter and dies. It has happened in the East Coast
2 because of poor customer relations programs that the utilities
3 have had. Think of a senior with a heart attack whose telephone
4 doesn't work. And literally, in Santa Monica, you can pick up
5 the telephone and not get a dial tone time after time for hours
6 on end. They have an emergency and they're relying on that
7 utility for some life-saving, life-support system, and they don't
8 get it. That's a social policy issue that I think needs the kind
9 of democratic participation that a Consumer Utility Board would
10 provide as opposed to the kind of judicial process that the
11 Public Utilities Commission is required to do.

12 In the area of funding for nuclear power plants or
13 other sorts of environmental issues, I think there are also
14 social issues involved here where the public's values about where
15 they put their dollars and how they should be invested need to
16 be discussed, discussed in a manageable way. I think it's right
17 that they shouldn't simply be discussed in the newspapers, but
18 they need to be discussed democratically, and it seems to me that
19 the Citizens Utility Board concept is a way in which those
20 discussions get heard, focused and decided upon in a rational
21 manner by a judicial body as opposed to either an initiative or
22 individual pieces of legislation.

23 One thing that I think the legislators ought to
24 reconsider in evaluating these proposals to improve the Public
25 Utilities Commission's responsiveness -- and I support all of
26 them -- is that there are cases here where individual cities or
27 individual service areas need to have special representation as
28 well. And I'm not sure yet, I have to think about it more clearly,

1 how we interrelate instances, for instance with San Diego Gas
2 and their now ability to have customers communicate with one
3 another about the problems of that particular utility in that
4 area. In Santa Monica in the rate case that we submitted, we
5 requested the formation of a Citizens Utility Board for telephone
6 service in Santa Monica because we felt that that was such an
7 important area of concern in a localized area of concern.

8 So, my question is, how can we relate and interrelate
9 those specific local areas of concern, areas where citizens just
10 in that particular community have a problem that needs to be
11 resolved and could be resolved in a democratic fashion with some
12 sort of committee Consumer Utility Board with a larger statewide
13 citizen participation formula? Because I think that both are
14 necessary and we ought to consider both.

15 I think that one other area where our experience
16 shows that citizen participation is terribly important is in the
17 issue of service. We not only challenged General Telephone on
18 their service but then we discovered that the PUC in setting
19 measurement standards to measure service had simply listened to
20 the technocrats about how to measure service standards and hadn't
21 listened to consumers about the real problems they were having
22 about service. So that there's a mechanism, I understand, for
23 the telephone companies to measure if you pick up the phone and
24 there is no dial tone, but there's no mechanism to measure if you
25 pick up the phone there's a dial tone, and three seconds later it
26 goes away. There's no mechanism to measure if there's static on
27 the line midway in the conversation as opposed to early on in the
28 conversation. There's no way to measure phones being out for one

1 hour or two hours as opposed to 24 hours. Those are real
2 service problems people are having and the PUC admitted that they
3 needed to adjust their measurement standards to more accurately
4 reflect that, that their technical abilities really needed that
5 citizen input. We have not yet been able to provide as much of
6 that citizen input as we'd like given all the press of other city
7 business that we have and cutbacks that we're suffering from the
8 state and federal government. And it seems to me that this sort
9 of ongoing Citizens Utility Board would provide that sort of
10 important technical service to the PUC that it doesn't now have so
11 they can do their job better.

12 Thank you for holding these hearings and allowing me
13 to share my thoughts.

14 CHAIRPERSON ROSENTHAL: Thank you very much.

15 Let me -- if all of the present legislation, if none
16 of the present legislation makes it through the legislative
17 process this year or next year, what do you think about an elected
18 PUC?

19 MS. GOLDWAY: Well, with my bent for democratic
20 participation, I'd probably support it in concept anyway. I do
21 think that more and more citizens in our area and throughout the
22 state will respond to it positively if they feel that there is
23 no way in which they can express their frustration and sense that
24 the PUC is, in fact, hearing them. I think that the utilities
25 should not be afraid of that. Really what we're asking for is a
26 participation. I think when people participate, they accept the
27 system and feel part of it more than they ever would if they're
28 isolated from it.

1 CHAIRPERSON ROSENTHAL: Thank you very much.

2 Anybody -- any questions from the legislators?

3 MR. HAYDEN: I have just one.

4 Were you asking whether there needs to be enabling
5 legislation to allow decentralized or local CUBs to exist?

6 MS. GOLDWAY: That's my question, and I think that
7 needs to be discussed more thoroughly.

8 We had asked the PUC for a decentralized, localized
9 CUB on this particular problematic utility in Santa Monica. They
10 declined in their decision last year. They are allowing a
11 similar thing with San Diego this year. That may be a part of
12 the formula for Citizens Utilities Boards and I am concerned that
13 a statewide Citizens Utility Board would not have the function
14 or structure to address some of those local concerns unless we
15 also had some mechanism for local participation.

16 CHAIRPERSON ROSENTHAL: Thank you very much.

17 Our next participant is Sylvia Siegel, Toward Utility
18 Rate Normalization, referred to as TURN, and everybody says that
19 Miss Siegel does a good job representing her group before the
20 utilities, but nobody here knows about it.

21 MS. SIEGEL: Well, I'll be happy to tell you.

22 [Laughter.]

23 SENATOR MONTOYA: Wait a minute. I've heard about
24 it for two years.

25 CHAIRPERSON ROSENTHAL: Well, I don't mean that we
26 haven't heard about it, I'm just suggesting that a lot of
27 consumers have not heard about it.

28 But, anyway, I'm sorry, you may identify yourself and

1 then we'll proceed now.

2 MS. SIEGEL: Thank you, Senator Rosenthal.

3 My name is Sylvia M. Siegel, S-i-e-g-e-l. I'm
4 founder and Executive Director of the 10-year-old organization
5 known as TURN. We are professional advocates; lawyers, economists
6 engineers and accountants who have, in the 10 years of our
7 existence, represented residential consumers on gas, electric and
8 telephone cases in hundreds of proceedings. In 1982 alone, we
9 represented consumers from southern -- exclusive of San Diego --
10 to the northern part of the state in 17 separate proceedings
11 during which time we effected benefits of \$2 billion that can be
12 measured. There were additional benefits as a result of that
13 record.

14 In these proceedings, we have, over the years,
15 represented the following organizations who are represented on
16 our Board of Directors: the Consumer Conferdation of California,
17 San Francisco Consumer Action, the California Legislative Council
18 of Older Americans, the California Grey Panthers, the Building
19 Service Workers, and the citizens from time to time from varies
20 cities and counties of the state.

21 We have a permanent staff, small, poorly paid; funding
22 is a continuous problem. We are currently doing a door-to-door
23 campaign in the nine Bay Area counties that I think will be
24 successful. But it's a struggle to meet our \$300 thousand annual
25 budget. Because we could not raise \$20 thousand for the expert
26 witness required in the last general rate case even though it
27 was crying out for tough, technical, professional representation,
28 we could not get in that case. We are planning currently a

1 \$60 thousand budget to get into the Pacific Telephone case, a
2 \$60 thousand budget to get into the General Case and a lot of
3 money to continue our efforts of the PG & E general case. In
4 addition, in the \$12 billion of costs facing us now this year,
5 we must amass the money to get in with the technical expertise of
6 nuclear engineers, nuclear physicists, metalurgists and so on
7 into the huge cost of operating plants. I hope we can do it.

8 We think of the three measures --

9 CHAIRPERSON ROSENTHAL: Let me ask you a question
10 because I think we need to target in on something.

11 You've indicated that you need those sums of money in
12 order to make the proper presentation. Where's the money going
13 to come from? And if, in fact, it doesn't come and doesn't exist,
14 then the good work that you want to do doesn't happen.

15 MS. SIEGEL: No, the good work happens, but it
16 doesn't happen in the quantity we want to provide for residential
17 consumers. We're raising the money now. I'm not sure that we'll
18 make those budgets. We need every help we can get.

19 We were happy to provide the predicate which took a
20 year to provide for the UCAN proposal. That was our affirmative
21 showing, and the PG & E case that resulted in decision in
22 December of 1981 upon which UCAN quickly built, we were so busy
23 prosecuting rate cases we haven't had time to take care of our
24 own interests in that regard. But I assure you, we are preparing
25 now and will follow up with a different kind of proposal, one
26 that I think is encouraging wide participation; that has always
27 been our focus, to encourage more participation in this process.
28 We don't think we should be the only ones there. This is an

1 extraordinarily complicated process, there are constantly new
2 problems facing everybody in the utility and energy world. We
3 don't have an exclusive claim to all of the brains or creativity.
4 The more answers provided the commission upon which to base a
5 decision, the better, and that's why we're not supporting one
6 state structure. We think the more, the better, and I think
7 Ruth Yanatta Goldway's pleas for some local participation would
8 fall neatly into the package that we will be proposing to the
9 commission as a follow-up of the marvelous decisions they passed
10 on Wednesday.

11 However, Senator, in addition to upfront funding in
12 order to enable a group to get in with the kind of expertise
13 that's required, we have a right to compensation for reimburse-
14 ment of costs -- not profit, but reimbursement of costs where
15 we do prevail either in part or substantially. For that reason,
16 I think Senator Montoya's bill giving the legislative underpinning
17 for the commission's actions -- though I don't think it was
18 necessary, but it would certainly help reinforce it. Any appeals,
19 incidentally made from the commission's decision will see us drop
20 everything and get in there to fight those appeals. Senator
21 Montoya's bill on intervenor's fee wants that little amendment I
22 suggested to Jerry yesterday, is made -- is an absolute, and I
23 going to push that bill when it's corrected for all we're worth.

24 We have to have funding. Consumer groups are dying;
25 there's no funding for this expensive, sophisticated, complicated
26 process. So, I think it's important, basic, to get intervenor's
27 fees.

28 Now, I appreciate the motivation for Assemblywoman

1 Gwen Moore's bill, but frankly, I look upon it as a political
2 platform for the Attorney General, and the Attorney General
3 already has the authority to get into rate cases. They have done
4 it under previous administrations. I have trained some of the
5 current consumer advocates across the country and I'll tell you,
6 without exception, each one of the offices of the so-called
7 public utility council, when push comes to shove, gives way
8 because they're beholden to the Legislature for their funding.
9 Private organizations are not. People hate me because I don't
10 compromise, but I don't compromise because I'm right, and when
11 I'm right, damn it, on behalf of the consumers, I'm going to
12 continue to fight that way. Nothing you do or the commission
13 does or anything else, except my Board of Directors, will change
14 my opinion. Okay?

15 CHAIRPERSON ROSENTHAL: Okay.

16 Anything further so we can move on to the --

17 MS. SIEGEL: You can move on. I would urge some kind
18 of action and, at a minimum, at a minimum, passage of the
19 intervenor's fee bill.

20 CHAIRPERSON ROSENTHAL: Thank you very much.

21 MS. SIEGEL: Let me add two other sentences, Senator,
22 and they're to support your bills, so it's important.

23 You have introduced, at my request, SB 375 and --

24 CHAIRPERSON ROSENTHAL: 373.

25 MS. SEIGEL: Pardon?

26 CHAIRPERSON ROSENTHAL: Isn't it 373?

27 MS. SIEGEL: Well, those --

28 CHAIRPERSON ROSENTHAL: Oh, I'm sorry, yeah,

1 375, right.

2 MR. MASTER: 373.

3 CHAIRPERSON ROSENTHAL: No, that's a different bill.

4 MS. SIEGEL: All right, let me --

5 CHAIRPERSON ROSENTHAL: Start over again, start over.

6 MS. SIEGEL: Let me start over. Strike that from the
7 record.

8 You have introduced at my request SB 536 which would
9 consolidate all of the various procedures into one annual review
10 to give everyone an opportunity not only to look with deep
11 scrutiny at all of the operating expenses but at the same time to
12 look at the operating efficiency of these procedures.

13 Thank you very much.

14 CHAIRPERSON ROSENTHAL: Thank you very much.

15 Now, representing the California Consumers Coalition,
16 Mr. Ralph Lao and Lewis Parras.

17 MR. LAO: Excuse me. I have spoken to your secretary.
18 She said that four of us could sit together. We have Alameda
19 County, Los Angeles and Orange with us.

20 CHAIRPERSON ROSENTHAL: You have a total of 10
21 minutes.

22 MR. LAO: Virginia has 10 minutes.

23 MS. JARROW: I have on my own too.

24 CHAIRPERSON ROSENTHAL: Now, wait a minute, wait a
25 minute.

26 MS. JARROW: California Utilities Protest Council.

27 MR. LAO: Well, that's --

28 CHAIRPERSON ROSENTHAL: You're talking about

1 California Consumers Coalition.

2 MR. LAO: Right.

3 CHAIRPERSON ROSENTHAL: 10 minutes.

4 MR. LAO: You can speak after us.

5 MS. JARROW: All right, I'll speak in the middle.

6 MR. LAO: All right.

7 CHAIRPERSON ROSENTHAL: You're Virginia Jarrow?

8 MS. JARROW: Yes.

9 CHAIRPERSON ROSENTHAL: Okay, so then you totally
10 have 20 minutes.

11 MR. LAO: All right.

12 MS. JARROW: Thank you.

13 MR. LAO: Thank you.

14 I'd like to say as I look around, I see --

15 CHAIRPERSON ROSENTHAL: It's now 11:30.

16 MR. LAO: All right.

17 My name is Ralph Lao with the Consumers Coalition,
18 Virginia Jarrow from Los Angeles with our organization, Elenor
19 Gurrell from Alameda County, and Lewis Parris from Leisure World
20 in Orange County.

21 As I look around and see this many utility people
22 here, it's not what I expected. I told my people and my friends
23 here that I feel that we're up to our britches in alligators and
24 we're not going to have time to enjoy the swamp today. So, I'll
25 try to get through this as quickly as I can.

26 I did not come here specifically to speak about CUB;
27 I came here to tell you what we feel is a way to effect change.
28 We are the -- formerly the California Tea Party with the Foothills

1 groups from Northern California that started protesting last year.
2 We think we've accomplished quite a bit. We've put pressure on
3 the utilities and on the PUC. A lot of the actions they've taken
4 in the past year, as the one gentleman from PG & E pointed out,
5 were not attributed to us, but we know they were because of us.

6 We looked at the situation a little differently. We
7 see groups that have been fighting here for 10 years or 15 years
8 or five years. God bless Sylvia Siegel because she was out there
9 yelling when no one else was listening; she was fighting alone.

10 We looked at the situation and we feel that it's a little
11 embarrassing that to join and to do the same thing that has been
12 going on before us would be little futile. We don't feel that we
13 want to go up and start advocating in front of the PUC, we feel
14 that we have to change that particular system. A lot of the
15 groups that we see that have been fighting the utilities we feel
16 have been institutionalized. They have been institutionalized
17 because they have joined the system, and that particular system
18 is played much better by the utilities than by the groups that
19 fight the utilities. They hire the best attorneys, the best
20 lawyers, the best of everything. And why not, we the ratepayers
21 pay for it. We are attempting to remove that source of money
22 that the utilities draw on to lobby against us. They have made
23 us, the ratepayer, the enemy. They have made us the competition
24 in area where there is no competition. They are monopolies and
25 they should look out for our needs as well as service us, and
26 they don't do that.

27 CHAIRPERSON ROSENTHAL: Do you have any suggestions
28 about what to do?

1 MR. LAO: Yes. We feel very strongly that an
2 elected public utilities commission is the way to go. We feel
3 that to have it for four years rather than six years is the way
4 to go. We don't think it's going to go through your Legislature.
5 We have spoken to you gentlemen, and the heavy lobbying that takes
6 place in Sacramento we feel is immoral. We'll never get an
7 elected PUC through the Legislature so we're going the initiative
8 process.

9 When we first started, we had quite a few people
10 laugh and say, "You're not going to make it. You need 900 thousand
11 signatures." Well, we're not going to go out for those signatures
12 until we know we're going to get them. We have been going around
13 the state getting support from people like Pual Gann who flat out
14 said, "In July I'll join, and if necessary, I'll get it on the
15 ballot." We have the California Grey Panthers, not local groups
16 but the state Grey Panthers, and at their convention they adopted
17 our platform; California Legislative Council of Older Americans,
18 and on and on and on. We're going to the people out there to get
19 them involved again and make this a more democratic process. We
20 feel that's the first step. We have Bill Bennett, Board of
21 Equalization, who is fully in support, and we want to run our own
22 candidates. When we go out with an elected PUC, it will not be
23 a matter of the utilities pouring their money in and getting their
24 own people. We have an attorney who worked on the nuclear freeze
25 initiative, we're working with the people that had the
26 peripheral canal initiative on the ballot, the nuclear freeze
27 initiative and quite a few others; we're trying to speak to the
28 experts, the ones who have been successful. We've had their

1 attorneys and their help.

2 We will get this on the ballot. We will get our own
3 people elected and that's how we will effect change through the
4 utilities, not advocating in front of the PUC now because that
5 doesn't help us.

6 We feel also that it's very, very important that
7 communities -- and this is happening up north, I believe,
8 Trinity County in June is going on the ballot with another
9 request for a public utility or a municipal utility district. We
10 are trying to encourage communities and districts to go municipal,
11 community-by-community. Sacramento had PG & E in 1950. They are
12 now municipal utility and they have one of the lowest rates in
13 the country, and that's what we're trying to effect.

14 Thirdly, we feel that older citizens in this state
15 are being hurt, and again I have to point to the fact that this
16 year is worse than last year and last year was worse than the
17 year before. It's gotten worse and worse each year. Nothing is
18 being done for the older citizens or for ourselves.

19 I point out it's like a teacher giving a lesson to a
20 student. If you give it 50 times and the student still hasn't
21 learned the lesson, then either something is wrong with the lesson
22 or something is wrong with the teacher. In this case, we think
23 the lesson is wrong. The utilities haven't listened, the PUC
24 hasn't listened. We want to change that lesson.

25 We feel that it's immoral to have ratepayers as
26 customers in a market where we cannot go anywhere else and then
27 threaten to disconnect us when we can't pay our bill. We think
28 there are agencies -- we know there are agencies out there -- who

1 are willing to help us, and I don't mean the Salvation Army with
2 this plan that the utilities just set up. We were not too much
3 in agreement with that plan because again we feel that they are
4 going along with the existing system, and we think that has to
5 change. We feel that there should be legislation, and that can
6 go through the Legislature if there's an exercise of courage
7 somewhere in Sacramento, either in the Assembly or the Senate --
8 or, actually you need it in both -- to get it through, and that's
9 that the utilities be disallowed from disconnecting the service
10 of elderly citizens, handicapped and hardship cases. It's
11 happening in New York, it's happening in Massachusetts, it's
12 taking place in other states.

13 There have been studies that have found that because
14 of this legislation, people have not jumped in and said, "Well,
15 I'm not going to pay my bill, there has been no change." And
16 there are still recourses for the utilities. We feel it's very
17 important that that legislation has to go on the books.

18 Again, as far as our elected PUC -- and I say this to
19 a lot of the members who are sitting out there, those who have
20 been fighting the utilities -- I say, join us in this effort to
21 get an elected PUC. I think it's important.

22 And I think that -- and I'll close with this -- I
23 think that great governments, institutions, empires, whatever,
24 don't fall over night. I think they fall when the people within
25 them stop believing in them, and that's what we see here in the
26 utility area. The peoples are not believing in what's going on,
27 they don't believe in the PUC, they don't believe in the utilities,
28 they don't believe in you gentlemen.

1 I myself feel that this is probably another exercise
2 in futility. Here we have done this last year, the year before
3 and the year before that. As Sylvia said, we will do it with you
4 or without you.

5 And with that, I would like to turn it over to --

6 CHAIRPERSON ROSENTHAL: You have now taken half of
7 the total time.

8 MR. LAO: Fine.

9 CHAIRPERSON ROSENTHAL: Everybody has much less time
10 now.

11 MR. PARRAS: Mr. Chairman, it is my feeling --

12 THE REPORTER: Please identify yourself.

13 CHAIRPERSON ROSENTHAL: Identify yourself.

14 MR. PARRAS: Lew Parrás, P-a- double r -a-s.

15 It is my feeling that the Legislature will take this
16 in hand and will pass a bill whereby the PUC shall be elected. It
17 is my belief that we have reached the point that California is
18 becoming the laughing stock, that our ballots do not consist of
19 electing our representatives but it consists more of reading the
20 propositions and voting on the propositions. We will eventually
21 reach a point when people will go to the ballot box and vote for
22 propositions and ignore completely election of representatives.
23 You don't want that and we don't want that.

24 I believe that the time has come for us to realize
25 that the Public Utilities Commission as an appointed body has
26 outlived its usefulness, that the Legislature must take a hand in
27 this and must assure us that they will see to it that we can elect
28 the Public Utilities Commission.

1 Mr. Chairman, you have spoken with regard to
2 communication problems. You, as an elected official, are well
3 aware of the fact that when you run for office, you face the
4 public, you tell them what you have accomplished and you hope
5 they shall vote for you based on your record. If you elect or
6 help us elect a public utility commission, they will have to do
7 exactly what you are doing. They will have to face us and they
8 will have to tell us their accomplishments. They will not be
9 able to hide behind a screen and, therefore, the communication
10 problem will be nonexistent.

11 I should like to point out, Mr. Chairman, three items
12 that have appeared in the past two days in the Los Angeles Times.
13 Very briefly, one item points to the fact that the Public
14 Utilities Commission -- the Public Utility Company, I'm sorry --
15 has spent \$24.5 million in lobbying. We pay for them to lobby
16 against us, of course. I should also like to point out that
17 Lieutenant Governor McCarthy has stated that money talks with the
18 Legislature.

19 It is our hope that you should help us, and we can't
20 give you a dime, not one dime. But this is the opportunity to
21 prove that you can help us, you will help us, and you do not
22 expect money in return.

23 Thank you, Mr. Chairman.

24 CHAIRPERSON ROSENTHAL: Thank you.

25 MS. JARROW: My name is Virginia Jarrow and -- oh,
26 I'm sorry would you want me to speak next or what?

27 MS. GURRELL: No, I'm going to concede my time to her
28 because we're running out of time.

1 MS. JARROW: All right.

2 My name is Virginia Jarrow and I have the Southern
3 California Utilities Protest Council; I'm chairman of it down
4 here. And we have begun networking and that's how I got to be
5 Secretary of the Consumer Coalition.

6 We have found that the people are very angry because
7 they have absolutely no direct control, they have no direct
8 voice in what is happening, and some of the things that are
9 happening are so outlandish that I have to give you examples.
10 I was at a public witness hearing and this woman got up there
11 and she came from Idyllwild and she's waving this bill, and she
12 says, "What are you going to do about it?" A little German
13 lady. And she said, "My electricity is shut off." This was
14 Southern California Edison. "I can do nothing, nothing, nothing.
15 I have a \$30 thousand bill for one month, and I wasn't even up
16 there in Idyllwild." She had been trying for five months to get
17 it corrected and couldn't her electricity turned back on. All
18 right, that was one example.

19 Another one is an 80-year-old woman who right now is
20 waging a war with Southern California Gas. They ran her bill up
21 from \$12 to \$120, and I talked to her yesterday and she has got
22 the senior citizens behind her. She has talked to the gas
23 company, she protests every month, she has talked to the PUC, she
24 protests every month. They will not turn it back on and she will
25 not pay the bill. And this little old lady could get hypothermia.

26 This is a dangerous and a personal situation. I
27 think here we have forgotten about the people. We're so busy
28 with issues, we're busy with ideas. We've forgotten what's

1 happening out there. I had a neighbor -- and this one was
 2 absolutely tragic -- she had pneumonia and I watched them come
 3 and turn off her utilities. She had gone through this Salvation
 4 Army program and she had gotten her voucher, and she had the
 5 voucher and she had the number on the voucher. And when Southern
 6 California Edison was called, they said, "Well, we have no
 7 responsibility for this. She has to come down and bring us that
 8 voucher or we're not going to turn it on."

9 I said, "I will give you a voucher number," which I
 10 did.

11 "We can't accept the voucher number."

12 We have reached the point where the utilities are so
 13 disconnected and disassociated from their customers that there is
 14 just no other way to go than an initiative process; there is no
 15 other way to go than this networking. And it is going stronger,
 16 believe me. We have whole organizations calling us all the time,
 17 whole huge groups of people, senior citizens particularly, groups
 18 beyond the ones Mr. Lao mentioned. And if you don't do something,
 19 the anger that is building is so strong that it will erupt.
 20 These people won't go on like that. Twenty-seven percent of the
 21 people -- and I'm not talking about the poor -- I'm talking about
 22 the working poor, the new middle class that we have -- these are
 23 the ones that are being impacted and not being heard. And they're
 24 going to be heard, we'll find that out.

25 And I thank you for your time.

26 CHAIRPERSON ROSENTHAL: Thank you very much.

27 Somebody mentioned earlier one of the bills that I
 28 had, SB 373. \$19 million has come back to the State of California

1 in overcharges by the oil companies and I have suggested this
2 money pay utility bills. The process is that the check -- the
3 money towards that utility bill will go directly to the utility
4 so that you would not have to go there and bring it to them.

5 MS. JARROW: And go through all that voucher system
6 and all that mess?

7 Well, you know, there's another thing I do have to
8 mention, is, that when we called the Salvation Army, we found out
9 that they hadn't gotten fines. Supposedly \$500 thousand was
10 given to them and they didn't even get it. The money that they
11 used was United Way money. It wasn't from the utilities companies.

12 MR. PARRAS: Mr. Chairman, may I address something?

13 CHAIRPERSON ROSENTHAL: Well, the utilities companies
14 I'm aware had matched funds that had been produced by either
15 state or federal funds.

16 MS. JARROW: But where did the funds go? They're
17 not going to the people. The Salvation Army themselves told me
18 this.

19 CHAIRPERSON ROSENTHAL: Well, the Salvation Army is
20 not the only organization that determines who is needy, and so --

21 MS. JARROW: Well, that's true, but the share that
22 they were supposed to get was nothing, was a thousand dollars.
23 How far does that go?

24 MR. PARRAS: May I address something to Assemblyman
25 Hayden?

26 MR. HAYDEN: Yes.

27 MR. PARRAS: Mr. Hayden, you made reference to the
28 possibility that we are shareholders of the Public Utility Company.

1 I would like some day to have to carry that a little further.
2 Perhaps we are and perhaps we should be issued stock.

3 CHAIRPERSON ROSENTHAL: Any further --

4 MS. JARROW: Yes.

5 MR. LAO: I would like to mention your 373 which, on
6 the surface, is an excellent bill as far as helping people. The
7 only problem with this is that this is what's been going on for
8 years and years. The utilities raise and they raise and they
9 raise, and we turn around and we help them and say, "Okay, well,
10 you raise and we'll find a way to pay." We have to stop the
11 raising. We don't have to play that particular game. We have
12 to stop the raising. I would like to know where that money would
13 go if you didn't use it the way you proposed. Where is that
14 money? I have not heard about it before. I'm new to this. This is
15 not my business; I'm just angry. I came out of the foothills to
16 protest this. Where is that money now, where will it go if it's
17 not used here? I don't think it should be given to the utilities.
18 I think what we should is get tough with the utilities and stop
19 the raising.

20 CHAIRPERSON ROSENTHAL: Well, the Legislature will
21 determine how the money is distributed. There are a number of
22 proposals. One is to weatherization in rental units where the
23 poorer people are living, and there are some suggestions -- my
24 suggestion -- that the major portion ought to go to pay bills
25 that are going to be shut off from poor people. Some other
26 suggestions have been made. The decision will be made by the
27 Legislature. This is \$19 million that is now in California for
28 that purpose for this next year, in this next year's budget. But

1 we're looking forward to I don't know how many more -- hundreds
2 of millions of dollars which are going to come back in the future
3 for these kinds of purposes.

4 MS. JARROW: May I make another statement?

5 CHAIRPERSON ROSENTHAL: Yes.

6 MS. JARROW: The new working poor do not qualify for
7 your funds. They are making too much money, most of them, to
8 qualify for these funds, and they get their utilities turned off
9 and they can't do anything about it. A big segment, 27 percent
10 of our population you're ignoring. There's somebody, there's
11 United Way taking care of the poor.

12 MR. PARRAS: And they're losing touch.

13 MR. LAO: Take some of that money and give it to
14 Sylvia Siegel and let her go in and raise some more hell with it;
15 she'll know what to do with it. She certainly needs the support.
16 She's been defending us for a long time.

17 CHAIRPERSON ROSENTHAL: We don't have control over
18 that.

19 MS. SIEGEL: Good idea.

20 CHAIRPERSON ROSENTHAL: The money is given back to
21 the Federal Government to be used in specific areas and those
22 areas have been spelled out. All that we're trying to do is to
23 figure out how to divide it up and how best to make use of that
24 \$19 million. It can't be used --

25 MS. SIEGEL: We can represent the poor as the funds
26 have been cut off from CSA to do the same thing last year. That's
27 right, we got \$60 thousand through the Community Service
28 Administration where there are low-income people in California.

1 Now, the Deukmejian Administration has not renewed
2 our proposal; we have to have it.

3 MR. LAO: It probably can be done, but as I said, it
4 will need an exercise in courage somewhere. We hope to see it
5 soon.

6 CHAIRPERSON ROSENTHAL: Thank you very much.

7 MR. PARRIS: Thank you, Mr. Chairman.

8 CHAIRPERSON ROSENTHAL: Tom Greene, Acting Chief,
9 Division of Consumer Services, the Department of Consumer Affairs.

10 MR. GREENE: Thank you, Mr. Chairman.

11 May it please the Committee, my name is Tom Greene
12 with the California Department of Consumer Affairs.

13 In our written submission, we indicated the broad
14 extent of our energy litigation program primarily last year. In
15 the last year, we have gone to the United States Supreme Court,
16 the Federal Energy Regulatory Commission and the state Public
17 Utilities Commission and various Federal district courts across
18 the nation on behalf of the consumers in the State of California.

19 I have four basic points to make to you today, and I
20 will make them very briefly.

21 The first one is that public participation is
22 critically important to the process. We're talking about
23 essentially an adversarial proceeding in which if consumers are
24 not effectively and fully represented, their voices will not be
25 heard.

26 Second, effective participation in the process
27 requires resources. These are, as various witnesses have indicat-
28 ed previously, outrageously complex and technical proceedings.

1 We need effective resources, sufficient resources, in order to
2 take on the many technical issues, among them, the Federal
3 regulatory decisions, whether or not transmission lines need to
4 be built, the efficiency of various thermal-fired plants across
5 the state. Those are the issues that need to be confronted in
6 order for rates to come down or for rate increases to be moderated.

7 The second point I would make with you today is that
8 in any public participation measure which you craft, you should
9 give serious consideration to giving both authority and funding
10 to deal with Federal issues. One of our current realities is
11 Federal decisionmakers, primarily the Federal Energy Regulatory
12 Commission and the courts, are making decisions which affect
13 each of us right here today. That trend is the reality and that
14 trend will continue.

15 We have been involved at both FERC on natural gas
16 questions and the U.S. Supreme Court on the natural gas question
17 and before Judge Green on telephone issues. Those proceedings
18 will continue. Those proceedings will continue to have effect
19 on California, and if you are going to create an effective public
20 participation mechanism, you must assure that resources and
21 authority are available to take on those decisionmakers in their
22 own forums.

23 The final point I would raise with you today, which
24 is essentially a takeoff on the one Sylvia mentioned to you
25 earlier, is that public participation should extend to the whole
26 field of litigation process. In particular, you should provide
27 funding and authority under any mechanism you create, to go to
28 the California Supreme Court to effectively appeal decisions of

1 the CPUC. I would expect that that would be a rare instance, but
2 in any instance in which that course was taken by a public
3 participant, it would be an important one.

4 And with those four points made, Mr. Chairman and
5 members, I would be pleased to respond to your questions.

6 CHAIRPERSON ROSENTHAL: Thank you very much.

7 Any questions?

8 MR. GREENE: Thank you.

9 CHAIRPERSON ROSENTHAL: Thank you.

10 Andrea Sheridan Ordin, Chief Assistant Attorney General,
11 Division of Public Rights.

12 MS. ORDIN: I would also like to introduce to the
13 Committee Dan Selmi, Deputy Attorney General who has been a
14 litigator for us for the FERC. In the --

15 CHAIRPERSON ROSENTHAL: Welcome.

16 MS. ORDIN: Thank you very much. And on behalf of John
17 Van de Kamp and myself, I am the Chief Assistant Attorney
18 General in charge of the Public Rights Division which has
19 responsibility for consumer issues as well as the environmental
20 issues, and others.

21 So, Sylvia Siegel was exactly right, the Attorney
22 General has been a litigator in these areas and has been active in
23 the Department of Consumer Affairs as a client.

24 We have a little bit of good news. The news, of
25 course, is basically bad, and you've already heard it here from
26 the consumers today. We are in a situation of crisis, but at
27 least in two matters, two matters in which the Attorney General
28 has been litigating for over a year and a half, we are beginning

1 get results.

2 Both Transwestern Pipeline Company and, just
3 recently, El Paso Natural Gas Company have exercised market-out
4 provisions in their own gas supply contracts to eliminate gas
5 priced over \$5 per thousand cubic feet. In addition, a tentative
6 settlement has been reached among the parties to the El Paso
7 Natural Gas Company general rate proceedings. The settlement, if
8 approved by the Federal Energy Regulatory Commission, would
9 result in a savings to California ratepayers estimated at a
10 figure of an excess of \$300 million. Additionally, the settle-
11 ment, if finally approved, calls for El Paso to withdraw a
12 pending rate increase scheduled to take effect this month. We
13 are also in the Transwestern general rate case and we have filed
14 opening testimony in that case to fight against the so-called
15 "minimum bill provision" of the tariff. We are hopeful that we
16 will be successful there and that we will see some reductions.

17 How many people do we have in the Attorney General's
18 Office working on these cases? At the moment, we are budgeted
19 basically for between one and a half and two lawyers plus a small
20 budget for consultant services. And it's clearly not adequate
21 even to staff the present cases that we are prosecuting before
22 the Federal Energy Regulatory Commission. Much less is it
23 adequate to deal with intervention before the PUC.

24 We believe we have developed the expertise. We
25 certainly believe we have the energy and the desire to represent
26 the consumers, but it will cost money. There are many ways that
27 this could be accomplished, one of which is a budget change
28 proposal that we have presented to the Governor. We have asked

1 for a minimum of 10 professional and paraprofessional persons
2 within the office to be in a utilities task force to litigate not
3 only at the Federal level, but at the state level. We would be
4 litigating issues of quality of service, general rate increases,
5 the cases concerning fair competition and subsidies, and others.

6 But that doesn't answer the question of public
7 participation. I think we must have the litigators and we must
8 be prepared to litigate these cases. But the public participa-
9 tion, which is the focus of this particular hearing, is
10 absolutely crucial. And on that, I think we are fortunate
11 because I think we have more than one approach whether we're
12 talking about the CUB bill, which we support, whether we're
13 talking about Gwen Moore's bill, which, of course, as Sylvia has
14 pointed out, we would support, which gives us an active role in
15 these areas, but also gives consumer groups an active role.
16 Intervention of consumer groups funded perhaps through Consumer
17 Affairs, perhaps through the Department of Justice, is another
18 way that we would commend to you.

19 With that, I would say that it is absolutely crucial
20 that we have public participation. We have many ways of doing
21 it, and, unfortunately, all of them are going to cost money. But
22 in the long run, it will save millions and millions and millions
23 of dollars.

24 CHAIRPERSON ROSENTHAL: Let me just get you to say it
25 again. You do support all three of the concepts: You support
26 CUB; you support intervenor; and you support the public advocate.

27 MS. ORDIN: We definitely do. There is no question --
28 and no one will be surprised in this room -- that we think, based

1 upon our history in the consumer issues, because of our desire
2 and our commitment in this area -- that one of the most cost-
3 effective ways of handling it would be through a funding of the
4 Attorney General's Office.

5 But we support all of those bills. We do not see
6 them as necessarily competitive. Perhaps somehow we can even
7 come up with one bill that will have the very best features of
8 all of the proposals and hopefully one that is as cost-effective
9 as possible.

10 CHAIRPERSON ROSENTHAL: Any questions?

11 MS. SIEGEL: Senator, I think the record ought to be
12 corrected. I'm very critical of the PUC staff most of the time,
13 but this time the PUC staff has been in the forefront of fighting
14 all the FERC positions, and I think that the impression can be
15 gained here that only the AG's Office was in it. That's not so
16 at all.

17 MS. ORDIN: I will correct that for the record, too.
18 I certainly did not intend to say that we have been represented --
19 we have represented clients, and also the PUC has been active as
20 well. I certainly didn't --

21 CHAIRPERSON ROSENTHAL: I did not --

22 MS. SIEGEL: But primary.

23 CHAIRPERSON ROSENTHAL: I did not take her remarks to
24 mean --

25 MS. SEIGEL: Okay.

26 CHAIRPERSON ROSENTHAL: -- that the staff had not
27 done its job. And for the record, that was Sylvia Siegel from
28 the audience.

1 SENATOR MONTOYA: Mr. Chairman?

2 CHAIRPERSON ROSENTHAL: Yes.

3 SENATOR MONTOYA: Having been back to Washington to
4 testify myself as Chairman of the Energy Committee, I did get the
5 impression of what she said, and that was that the AG was at the
6 forefront of these changes. I think again, a multiple approach
7 has been very good. A lot of people have been involved,
8 including our Public Utilities Commission, and other people. And
9 whatever success we've faired with that is to be parcelled out
10 among many.

11 MR. ORDIN: Right. I will give both Sylvia Seigel
12 and this Committee our prepared remarks in which we, I think,
13 make clearer, the combined efforts in the past and also commend
14 the PUC in the past for its very strong position on the CWIP
15 issue, and that we would certainly applaud their continuing that
16 position as time goes on.

17 CHAIRPERSON ROSENTHAL: Very good.

18 SENATOR MONTOYA: Additionally, Mr. Chairman, just to
19 elaborate on that picture, Southern California Gas, which as been,
20 of course, affected by the ratepayers coming and wanting to over-
21 turn their cars and all those kind of things. There's been
22 involvement there, they have been involved. Because it is those
23 distribution companies, which is what they are in this state,
24 that face the wrath of the ratepayers without a full awareness
25 that there are those pipeline companies and the producers that,
26 you know, which happens to be mostly from Texas, and Transwestern,
27 I think, is the other. So, they have responded to their rate-
28 payers.

1 MS. ORDIN: And in those cases -- and Dan Selmi is
2 our litigator or primary litigator on those cases, certainly we
3 are together with the utilities there. And I think what we're
4 trying to say here -- and it is a new administration, too -- that
5 we are trying to say that we have the capacity and the ability,
6 and that sometimes we will be together with the utilities when
7 we are against the pipeline and other times, perhaps, we will
8 have to be against the utilities. And we think as litigators we
9 can play both of those roles.

10 CHAIRPERSON ROSENTHAL: Thank you very much.

11 The next participant, Gene Erbin, Center for Public
12 Interest Law.

13 MR. CAHILL: Just a correction for the Committee, my
14 name is Kevin Cahill. That's C-a-h-i-l-l. I am a member of the
15 staff for the Center for Public Interest Law in lieu of
16 Mr. Erbin.

17 CHAIRPERSON ROSENTHAL: Fine, thank you.

18 MR. CAHILL: We'd just like to briefly point out some
19 of the factors of the UCAN decision that might be of interest to
20 the Committee and maybe to the public.

21 First of all, we'd like to thank the Public Utilities
22 Commission for their decision. We're greatly relieved that the
23 PUC is seeing the efficacy of such a project which we have so
24 ardently fought for for the last year and a half.

25 The project will be a two-year pilot project which
26 will fill a void in San Diego. As Senator Rosenthal has said,
27 much of Southern California has been inadequately represented in
28 the past. The PUC does have a small staff here in Los Angeles,

1 but they have no staff in San Diego. This consumer board will
2 fill that void in two purposes in terms of representing the
3 consumers in San Diego for the Public Utilities Commission and
4 also an informational source to the consumers themselves.

5 The Center for Public Interest Law will be selecting
6 the initial or interim Board of Directors within the next couple
7 months, albeit if San Diego Gas & Electric does not appeal the
8 decision. Thereafter, we will start inserting the mail inserts
9 into the San Diego electric bills for solicitation and information
10 to the consumers as to what UCAN is all about and asking them for
11 contributions and also names of people who would like to be on
12 the permanent Board of Directors. Thereafter, we'll have another
13 mailing which will be actually a proxy for the voting of the
14 permanent Directors of the Board.

15 We've seen in the media the last couple days, ever since
16 the Public Utilities Commission's decision, that there might be a
17 conflict between UCAN and CUB. The Center for Public Interest
18 Law does not see any competition or any competing interests by
19 the two boards. There's actually a difference between the two
20 boards. UCAN serves a local interest in representing San Diego
21 ratepayers who have not had that adequate representation in the
22 past on a concerted effort, whereas CUB is more of a statewide
23 concern and represents all utility consumers of gas, electric,
24 telephone and water companies, whereas UCAN will only represent
25 the electric and gas ratepayers of SDG & E.

26 Further, that even though the bylaws of UCAN have not
27 been drafted yet, they probably will mirror those that are
28 proposed for the CUB Board of Directors, election procedures and

1 et cetera.

2 So we see that both can peacefully and successfully
3 coexist in the State of California, and we hope that the proposal
4 will be successful and hopefully will engender further local
5 boards in other utility areas.

6 The second thing I'd like to talk about is the point
7 on intervenor funding. I've already submitted to your Committee
8 a letter, approximately about two weeks ago, expressing some
9 specific modifications to Senator Montoya's bill, SB 4. I'm sure
10 that your Committee will be working closely with the PUC. We
11 hope that the Committee will mirror the decision in OII 100 for
12 the most part. There are, I think, several inadequacies in the
13 present wording of SB 4 specifically regarding the financial
14 hardship test. We need to insure that those public interest
15 organizations that are incorporated or unincorporated who
16 represent interests who are of financial hardship, be allowed
17 compensation. And the present wording of the bill does not
18 allow for that.

19 Further, that intervenors be allowed compensation if
20 they have to fight utility appeals of that award. The PUC in
21 their decision in OII 100 included in dicta some favorable
22 language that participants would be able to receive costs and
23 attorney's fees for judicial review but it was not specifically
24 included in the order. The Center for Public Interest Law
25 suggests that that become part of the SB 4 provisions.

26 And we'd just like to thank the Committee and would
27 like to entertain any questions if you might have them.

28 CHAIRPERSON ROSETHAL: Any questions?

1 Thank you very much.

2 MR. CAHILL: Thank you, now.

3 Robert Lowery, Dan Stockton, California Water
4 Association.

5 MR. LOWERY: Yes. Good morning, Mr. Chairman, I'm
6 Robert Lowery, the attorney for the association. The principal
7 spokesman will be Mr. Stockton.

8 I would like to take this opportunity to clarify some
9 possible misconceptions that the Committee may have received
10 earlier. There was some suggestion that ratepayers may be
11 investors by contributing to the capital of utilities through
12 depreciation. I think we should understand what depreciation
13 really is. Depreciation is treated as an expense, but it is the
14 reimbursement of the utilities capital that has been consumed in
15 the service of the utility customer. So, it is not a contribu-
16 tion to the capital, it's a replacement of the capital that was
17 originally invested by utility investors and consumed over the
18 useful life of the property in the service of the consumers.

19 Secondly, once in a while, in very unusual
20 circumstances, I think the Commission has authorized the recovery
21 of certain types of capital costs in the form of rates. I think
22 one of them some years ago was an exploration in development fund
23 to enable gas utilities to search for additional gas supplies at
24 at time when it looked as those supplies were becoming scarce.

25 I think you may rest assured that if any plant or any
26 facility was acquired through utility ratepayer-provided funds
27 that the utility would not be allowed to take depreciation on
28 that capital provided by that means. The result is that while

1 the utility ratepayer may have paid in advance for the capital
2 to be consumed, he will not pay for it twice.

3 With those comments, I would like to let Mr.
4 Stockton summarize the position of the California Water
5 Association.

6 MR. STOCKTON: Thank you, gentlemen, and I want to
7 thank you for allowing the water utility industry to be repre-
8 sented before your hearing today.

9 I'd like you to please understand the special nature
10 of the water utility industry in this state. The majority of
11 the companies are made up of small, locally-owned utilities
12 serving less than a hundred customers with total gross revenues
13 of \$50 thousand. The rate increases that have come before the
14 regulatory process occur less frequently and in smaller amounts
15 than in any other rate increases for the gas and electric
16 utilities. Because the rates are so low and a smaller portion of
17 the household budget is represented by those rate increases,
18 there is very little consumer interest specific to rates for the
19 water utility industry.

20 To further assure that the regulatory industry,
21 principally the Public Utilities Commission but not uniquely the
22 Public Utilities Commission, can regulate the industry, SB 1613
23 of 1982 was passed which allows a surcharge, a ratepayer sur-
24 charge to be added to the water bill to assure funding of over
25 \$3.6 million to the Public Utilities Commission for the regulation
26 of investor-owned water utility companies.

27 I want to submit to you people for your critical and
28 careful examination that the water utility industry is unique

1 and adequately accessed by the public, and any implementation of
2 a Citizens Utility Board would be providing a gross disservice
3 to the water utility ratepayers.

4 CHAIRPERSON ROSENTHAL: Any questions?

5 Thank you very much for your -- yes, sir?

6 MR. LOWERY. It was suggested that lobbying expenses
7 by utilities are borne by the ratepayers. As you may recall, one
8 of the spokesmen suggested that the utility industries spend a
9 great deal of time and money in lobbying. Once again, the Public
10 Utilities Commission does not allow lobbying expense to be
11 recovered by the utility through rates. That is a burden borne
12 by the shareholders.

13 Thank you.

14 CHAIRPERSON ROSENTHAL: Thank you for that correction.

15 Staff has called to my attention that what generally
16 is considered lobbying is kind of a nomenclature, but that
17 representation which is paid for out of the ratepayers is not
18 considered lobbying by you in your discussion about that.

19 MR. LOWERY: That is true. I think that lobbying is --
20 what we refer to as lobbying is, as interpreted by the Public
21 Utilities Commission, is legislative advocacy, which is not
22 recoverable. Obviously, we must appear before the Public
23 Utilities Commission in order to justify our case, because if we
24 don't appear, there's no rate relief.

25 CHAIRPERSON ROSENTHAL: Yes, I understand what you're
26 saying, but the perception is that that's all lobbying. In other
27 words, when reference is made to lobbying, the fact that the PUC
28 makes or permits that of ratepayers, it's just symantics there in

1 terms of what the people consider to be lobbying.

2 Now, Billie Heller, representing Women For.

3 Not here.

4 Jim Tatum from Los Angeles County Federation of Labor,
5 AF of L-CIO.

6 Not here?

7 Kathie Klass, Executive Officer, Consumer Advisory
8 Council, Department of Consumer Affairs. Go right ahead.

9 MS. KLASS: Thank you Mr. Chairman and members of the
10 Committee for this opportunity to testify.

11 I am Kathy Klass, the Executive Officer of the
12 California State Consumer Advisory Council.

13 Our council is very unique in that we represent a
14 cross section of the marketplace. We have one labor member, one
15 agriculture member, one business member, two consumer members
16 and two public members. Currently, the two public members are
17 held by one consumer advocate and one small businessman. We
18 have a member from the Assembly, which is Assemblyman Richard
19 Katz, and our recent appointment from the Senate is Senator
20 Rosenthal. So the council's status is that it can look a cross
21 section of the marketplace when we're looking at consumer needs.

22 And one of the number one priorities for the council
23 is utility rate reform. California has been facing exorbitant
24 rate increases. We've heard about the problems with seniors in
25 the middle class. There's another problem that hasn't been
26 discussed today faced by the middle income consumer and that's
27 the first homebuyer who is now being eliminated from the market
28 because they can barely qualify for the loan based on the cost

1 housing in California and the interest rates which have been so
2 high. Well, for the first time in California, lenders are putting
3 into the equation the potential cost of utilities which often
4 phases out the first-time homebuyers.

5 Before I discuss the council's feelings on the
6 various utility bills before your Committee, I'd like to also
7 discuss a perception that I have seen that really bothers me as
8 an individual, and that's the number of times that utility
9 companies can go before the PUC annually to request a rate
10 increase. And the state government, state businesses usually
11 operate on an annual budget, and if I, when I worked for the
12 private sector, had gone to my boss more than once a year for a
13 raise, I can assure you that I would have been out of a job. And
14 here the utility companies, some of them have gone six, seven,
15 eight times a year, continue to go to the PUC and ask for rate
16 increases. I think that they need to look at their budget process
17 maybe a little bit differently. And also, I think that they would
18 save millions of dollars if they were only allowed to go before
19 the Commission once or twice a year and hopefully would be able
20 to return those dollars to consumers.

21 Now, the council's number one priority this year is
22 the CUB bill. We feel that with government having the fiscal
23 problems that it is, the CUB bill is probably the best answer for
24 utility rate relief for California consumers. CUB will be
25 independent and will make it or break it on whether the
26 California residents support it or not. And I think that we've
27 heard the merits today of the CUB and I'm not going to go into
28 it. But we feel, that in light of the economic situation in the

1 state that the CUB bill is the best. But we also feel that the
2 other bills that are before the Legislature having to do with
3 utility rate reform can complement the CUB bill. And we also
4 feel, number one -- the number one important thing this year is
5 some rate relief to California consumers.

6 And, again, I will close with we do support CUB as
7 our number one choice, but we support utility rate reform above
8 all.

9 Thank you for this opportunity.

10 CHAIRPERSON ROSENTHAL: Thank you very much.

11 I have a question of --

12 MS. KLASS: Oh, I have a couple of other things I
13 forgot.

14 CHAIRPERSON ROSENTHAL: Oh?

15 MS. KLASS: I'm sorry. There were a couple of notes
16 that I jotted down today, and I apologize.

17 I think it's important to note that the PUC and its
18 staff is a decision-making body, and the utilities position is
19 pushed by well-financed experts, and consumers do not have the
20 funding to present an equal case. And, so, when consumers are
21 actually and fairly represented, this perception will change.
22 And I think that I've said to people, as much as I know about the
23 utility rate structure, that I would be a weak representative
24 before the PUC because I don't fully understand it. I know that
25 consumers are suffering rate problems.

26 And I think the other interesting thing is that the
27 Boston Corporation has rated California the third best state in
28 the nation in the utilities companies, and Indiana is the second

1 best state.

2 CHAIRPERSON ROSENTHAL: Thank you very much.

3 There was a question for the representatives from
4 the California Water Association.

5 By your testimony, were you suggesting that you
6 should be eliminated from CUB?

7 MR. LOWERY: I think that what we were suggesting is
8 that, yes, that is essentially the answer, and the reason is
9 that the nature of the industry and the nature of this business
10 does not have the public interest characteristics in it that
11 would require the participation in the CUB as in the case of
12 the gas and electric utilities as energy utilities because their
13 problems have been going up more rapidly by reason of the purchase
14 of fuel supplies which are not a characteristic of the water
15 industry. And we're also a very scattered, diversified group of
16 relatively small enterprises and do not impact the ratepayer to
17 this degree. But the other energy utilities do.

18 CHAIRPERSON ROSENTHAL: Thank you very much.

19 Now, at this point, let me call upon one who was not
20 here when I called his name before, Jim Tatum representing Los
21 Angeles County Federation of Labor, AFL-CIO.

22 MR. TATUM: Thank you, Senator Rosenthal, I apologize
23 for not being here earlier. We anticipated being on a little
24 later.

25 Mr. Chairman and other members of the Committee, my
26 name is Jim Tatum, representative of the Los Angeles County
27 Federation of Labor, AFL-CIO.

28 And we have been a long-time supporter of the CUB

1 initiative, being cosponsors and supporters from its inception.

2 But we do deeply appreciate this opportunity to
3 appear before you this morning to express our support for SB 399,
4 the CUB legislation. We see utilities as a consumer necessity
5 for which one cannot comparison shop. With this thought in mind,
6 a Citizens Utility Board could ultimately be of great interest and
7 benefit to the consumer. Citizens utility boards are not some-
8 thing that are new. They've already established a track record
9 in other states, namely Wisconsin. We believe SB 399 has all
10 the built-in safeguards necessary to make this a very viable
11 and functional organization on behalf of California's millions
12 of consumers.

13 It goes without any further statement of our support
14 for SB 399.

15 CHAIRPERSON ROSENTHAL: Thank you very much.

16 At this time, we have concluded our prepared agenda.

17 Is there anyone who feels compelled to add something
18 to what's already been said, anybody in the audience that would
19 like to have a minute to add anything further?

20 Not Sylvia; Sylvia we've heard from twice now.

21 Well, I really appreciate you coming, I appreciate
22 your participating, and I thank you very much on behalf of the
23 Committee.

24 [Thereupon this Public Hearing before the
25 Senate Committee on Energy and Public
26 Utilities was adjourned at 12:00 noon.]

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CERTIFICATE OF SHORTHAND REPORTER

1
2 I, MANUEL E. KETCHAM, a Shorthand Reporter of the
3 State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing Public Hearing before the Senate Committee on Energy
6 and Public Utilities was reported in shorthand by me, Manuel
7 E. Ketcham, and thereafter transcribed into typewritten form.

8 I further certify that I am not of counsel or
9 attorney for any of the parties to said hearing; nor in any way
10 interested in the outcome of said hearing.

11 IN WITNESS WHEREOF, I have hereunto set my hand
12 this 2nd day of May, 1983.

13
14 Manuel E. Ketcham
15 MANUEL E. KETCHAM
16 Shorthand Reporter
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